

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearing

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Public Hearing: Yes: X No:

Notices Mailed On: 9/11/04

Published On: 9/11/04

Posted On: 9/11/04

TITLE: **CONSIDERATION OF AMENDMENTS TO THE ZONING ORDINANCE, SIGN ORDINANCE TEXT AND NEIGHBORHOOD BEAUTIFICATION ORDINANCE TEXT (ZT2004-2)**

Proposal: Proposed Ordinance No. 124.27 regarding Zoning Ordinance, Sign Ordinance and Neighborhood Beautification Ordinance text amendments to reorganize the sign ordinance, address violation issues and provide for administrative citation authority.

Location: Citywide

RECOMMENDATION: **Recommend that the City Council:**

1. Adopt Ordinance No. 124.27

Applicant: City Initiated

Attachments:

1. Summary Matrix of Sign, Zoning and NBO Text Amendment
2. Proposed Changes to Chapter 30, Signs
3. Draft Ordinance No. 124.27
4. Draft September 1, 2004 CAC Minutes

BACKGROUND

Staff presented the proposed changes to the Sign, Zoning and NBO texts to the Community Advisory Commission on September 1, 2004 and to the Economic Development Commission on September 13, 2004. Comments were received and incorporated into the Draft Ordinance. Copies of the Draft CAC Minutes are attached. Copies of the EDC minutes will be made available when they are prepared.

The proposed changes would reorganize the Sign Ordinance to provide definitions for several terms or sign types, move several isolated regulations into separate sections, provide a more effective Sign Program procedure for commercial and industrial sites, provide administrative citation authority in the Zoning Ordinance and address the violations sections of the Sign Ordinance and the Neighborhood Beautification Ordinance. These changes will make the ordinances easier for staff to implement and for the public to understand.

DISCUSSION

Amendments to the Sign Ordinance:

- 1) Providing definitions for several types of signs.
- 2) Reorganizing the Sign Ordinance to move several isolated but related provisions into their own stand-alone sections, make the ordinance better organized and to correct typographical errors.
- 3) Providing a matrix showing sign approval method by type of permit and by zoning district.
- 4) Providing Design Guidelines for signage.
- 5) Limiting the size of balloon signs to fifteen (15) inches in diameter at their widest point.
- 6) Requiring that Garage Sale signs be free-standing and that they may not be attached to utility poles or public property.
- 7) Requiring that Open House Directional Signs be free-standing.
- 8) Provision of a stand-alone section regulating permitted signs and providing such regulations.
- 9) Provision for a Sign Program approved by the Planning Commission pursuant to an "S-Zone Approval".
- 10) Expansion of the Signs Exempted section to add several types of signs.
- 11) Provision of a stand-alone section "Prohibited Signs" which would regulate prohibited signs.
- 12) Define "Continuing Violation".
- 13) Define "Individual Violation".
- 14) Provide for administrative citations for violations of the Sign Ordinance.

Amendments to the Zoning Ordinance to clarify and expand the Zoning Ordinance administrative citation provisions.

Amendments to the Neighborhood Beautification Ordinance:

- 1) Defining "Continuing Violation".
- 2) Defining "Individual Violation".
- 3) Changing the time period for "Unreasonable Period of Time" from thirty (30) days to fifteen (15) days to shorten the time that nuisances exist before they are cleaned up.
- 4) Providing authority to issue administrative citations.

Please see the attached Summary Matrix of Sign, Zoning and NBO Text Amendment for an explanation of the proposed changes. For greater detail, please refer to the attached "Proposed Changes to Chapter 30, Signs" and Draft Ordinance No. 124.27.

ENVIRONMENTAL REVIEW

The project is exempt from the provisions of the California Environmental Quality Act (CEQA) because it can be seen with certainty that there is no possibility that the ordinance text amendments may have a significant effect on the environment. The proposed text amendments will reorganize and clarify the Sign Ordinance, address violations in the Sign Ordinance and NBO and provide for Administrative Citation authority in the Zoning Ordinance. These changes will not have a significant effect on the environment.

RECOMMENDATION

Close the Public Hearing. Recommend the following to the City Council:

1. Adopt Ordinance No. 124.27 for amendments to the Zoning Ordinance text (ZT2004-2)

2. Summary Matrix of Sign, Zoning and NBO Text Amendments, ZT2004-2 (proposed Ordinance No. 124.27)

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ISSUE NO.	ISSUE	PAGE NO. *	PROPOSED SOLUTION
1	Several terms or sign types have been used in the Sign Ordinance without being defined.	1 - 3	Definitions are proposed for: <ul style="list-style-type: none"> <input type="checkbox"/> A-Frame Sign <input type="checkbox"/> Architectural Sign <input type="checkbox"/> Area Identification Sign <input type="checkbox"/> Balloon <input type="checkbox"/> Banner Sign <input type="checkbox"/> City Identification Sign <input type="checkbox"/> Grand Opening Sign <input type="checkbox"/> Off-Site Public Information Sign <input type="checkbox"/> Portable <input type="checkbox"/> Scoreboard Sign <input type="checkbox"/> Shopping Center Identification Sign
2	The term "Temporary Sign" is currently used but undefined. As applied the sign is actually a window sign.	3	<input type="checkbox"/> A new definition for Window Sign is proposed
3	Two types of signs are currently defined as applying to churches. It is proposed that the sign types be named to add "Religious Assembly" to the definitions to make them more inclusive	9 11	New definitions are proposed for: <ul style="list-style-type: none"> <input type="checkbox"/> Church/Religious Assembly Sign <input type="checkbox"/> Off-Site Directional/Church/Religious Assembly/Institutional Sign
4	New terms or sign types are proposed and defined in this ordinance	1 2 3	Definitions are proposed for: <ul style="list-style-type: none"> <input type="checkbox"/> Coming Soon Sign <input type="checkbox"/> Portable Sign <input type="checkbox"/> Temporary Promotional Sign

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Summary Matrix of Sign, Zoning and NBO Text Amendments, ZT2004-2 (proposed Ordinance No. 124.27)

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5	The current ordinance is not well organized. For example, many signs that are permitted, such as church signs, architectural signs, Area Identification Signs, City Identification Signs, and various prohibited signs are scattered around the ordinance.	various	<input type="checkbox"/> Reorganize the Sign Ordinance to move scattered references to permitted signs, temporary signs and prohibited signs to stand-alone sections. Similar language and regulations provide for more consistent and effective regulation.
6	The current ordinance is sometimes unclear as to how each type of sign is approved in each zoning district. Also, the language describing approval method is unclear and scattered around the ordinance.	20	<input type="checkbox"/> A unified matrix is proposed which provides sign approval method by type of permit and by zoning district (See Matrix at the end of this document)
7	There are no design guidelines in the Sign Ordinance	6	<input type="checkbox"/> Please see page 6 of the attached report for a detailed description of the Design Guidelines.
8	Balloon Signs currently may exceed three cubic feet when used for special events. Many complaints have been received from the public and members of the Planning Commission about large roof top balloons. The Cities of San Jose and Santa Clara prohibit large balloon signs. There is no requirement in the current ordinance that balloons be securely tethered to the ground or roof and that they not constitute a hazard.	9	<input type="checkbox"/> Limit the size of Balloon Signs to 15 inches in diameter, require that balloons be securely tethered to the ground or roof and that they not constitute a hazard.
9	Garage Sale signs are not required to be free-standing and typically are attached to public property	10	<input type="checkbox"/> Must be free-standing <input type="checkbox"/> My not be attached to utility poles or public property.

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10	Open House Directional Signs are not required to be free-standing	12	<input type="checkbox"/> Must be free-standing
11	Projecting Signs are permitted but not regulated	13	<input type="checkbox"/> Projecting Signs must be 8 feet above the ground and 14 feet above a driveway. <input type="checkbox"/> Must be located in the middle of the façade of a building unless permitted otherwise by an "S" Zone Amendment. <input type="checkbox"/> Only one for each business <input type="checkbox"/> Maximum size of 16 square feet per side unless increased pursuant to an "S" Zone Amendment. <input type="checkbox"/> May project 8 feet unless modified pursuant to an "S" Zone Amendment. <input type="checkbox"/> May not project into a public right-of-way.
12	Banner Signs are not regulated as to size, attachment or location	9	<input type="checkbox"/> Banner Signs must not be larger than 30 inches by 24 feet <input type="checkbox"/> Must be securely attached to a building or pole <input type="checkbox"/> Must be located on the premises of the business it advertises
13	Coming Soon signs are not regulated	9	<input type="checkbox"/> Must have a maximum height of 8 feet <input type="checkbox"/> Must have a maximum size of 32 square feet <input type="checkbox"/> May denote opening date, architect, engineer, contractor, future business or lending agency <input type="checkbox"/> Must be placed on the site of work under construction <input type="checkbox"/> Maximum of two per construction site <input type="checkbox"/> May only be placed after issuance of a building permit for the main structure and must be removed upon final occupancy of the main structure.
14	Grand Opening signs are not regulated	10-11	<input type="checkbox"/> Are permitted when used for bona-fide grand-opening functions. <input type="checkbox"/> Are effective only 15 calendar days prior and 45 calendar days after a business' initial occupancy.

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			<input type="checkbox"/> May be displayed for a period not in excess of 30 consecutive calendar days. <input type="checkbox"/> Shall only be displayed on the business for which the grand-opening will occur.
15	Church signs name is too restrictive	11	<input type="checkbox"/> Church sign is re-named to Church/Religious Assembly Sign
16	Public Information Signs are not regulated	14	<input type="checkbox"/> A sign must be located at a prominent entry to the City or a significant location in the City where it will be visible to large numbers of citizens <input type="checkbox"/> The location, design and size of the sign will be determined by the "S" Zone Amendment.
17	The Sign Program requirement in Section 30-3.04 provides no guidance on how to achieve the stated "conformity of design and materials". Design parameters are needed to assist staff in making the required findings for evaluating sign programs. In addition, an applicant cannot deviate from the sign ordinance without a variance. The variance "test" is difficult and is patterned after state law. The flexibility of a sign program is currently available to shopping centers and multi-use structures.	16	XI-30-4.04 Sign Program / "S" Zone approval (a) Signage for a new retail, office or industrial complex of (4) or more acres having a gross floor area of 40,000 square or larger, a multi-tenant building, a new automobile dealership, any buildings more than two (2) stories high shall be subject to Sign Program/"S" Zone approval to be reviewed by the Planning Commission pursuant to Section XI-10-42 "S" Combining Dis (Site and Architectural Review or "S" Zone). (b) An existing or proposed retail, office or industrial complex (all of the businesses in the complex or shopping center, not an individual business in a complex or shopping center), multi-tenant building, automobile dealership or building more than two (2) stories high, regardless of the size of the site on which it is located, may apply for a Sign Program/"S" Zone approval to be reviewed by the Planning Commission. (c) A Sign Program may deviate from the standards of the Sign Regulations if the Planning Commission makes the following findings:

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			<p>1. That the program's contribution to effective and attractive identification of businesses, services and uses and the design quality of the site and surrounding area will be superior to the quality that would result under the regulations and standards of the Sign Regulations; and</p> <p>2. That all of the proposed signs of the retail, office or industrial complex, multi-tenant building, shopping center, automobile dealership or building are well related to each other and compatible with the style or character of existing improvements on the site and adjacent sites;</p> <p>3. That all of the proposed signage shall generally conform with the Design Guidelines in Section XI-30-3.04;</p> <p>4. No signs in the Sign Program are Prohibited Signs as regulated in Section 6; and</p> <p>5. That the requirements of Section XI-10-42.03 are met.</p>
18	<p>Exempt Signs section of the ordinance currently does not address:</p> <ul style="list-style-type: none"> <input type="checkbox"/> House numbers <input type="checkbox"/> Name plates <input type="checkbox"/> Mail box identification <input type="checkbox"/> Street names <input type="checkbox"/> No-trespass signs <input type="checkbox"/> Warning signs <input type="checkbox"/> California Lottery signs <input type="checkbox"/> Murals or other artistic paintings <input type="checkbox"/> On-Site Temporary For Sale or Lease Signs, or <input type="checkbox"/> Information Signs <input type="checkbox"/> 	17	<p><input type="checkbox"/> These signs are added to the current list of Exempt Signs (signs not requiring a permit)</p>

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19	<p>Prohibited signs are currently limited to A-Frame signs, Off-Site Signs, signs on public property, roof signs, Outdoor Advertising Structures unless permitted pursuant to Chapter 14 of the Municipal Code, portable signs, moving signs and statuary signs. These signs are scattered through the Sign Ordinance. New signs (in italics to the right) are proposed that are typical in other cities.</p>	18	<p>Add the following stand-alone section for Prohibited Signs: The following signs, or signs which contain the following elements, are Prohibited Signs:</p> <ul style="list-style-type: none"> ❑ A-Frame Signs. Any A-Frame Sign with the exception of public service signs and open house directional signs. ❑ <u>Blinking, Flashing Lights. Any sign having blinking, flashing or fluttering lights, or any other illuminating device which has a changing light intensity, brightness or color.</u> ❑ Off-Site Signs. Off-site signs as regulated by Section XI-30-3.06 except for Temporary Tract Advertising Signs, Regional Shopping Centers signage as regulated in Section XI-30-4.02, Open-House Directional Signs and Off-Site Directional Signs for churches, religious assembly or institutions. ❑ On Public Property. Any sign located on public property as regulated by Section XI-30-3.07. ❑ <u>Other Advertising Structure.</u> ❑ Outdoor Advertising Structures unless permitted pursuant to Chapter 14 of the Municipal Code. ❑ Portable Signs. Any Portable Sign with the exception of public service signs and open house directional signs. ❑ <u>Privately owned signs Resembling Traffic Signs. Any privately owned sign resembling any public directional sign or traffic control device.</u> ❑ <u>Reflective Signs. Signs using colors that contain reflective properties.</u> ❑ <u>Rotating or Moving Signs. Any sign which revolves, rotates, moves in any manner or creates the illusion</u>
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			<p>of movement, rotation or revolvment, or has any visible moving, revolving or rotating surfaces or parts, is held and/or moved by a human being or animal.</p> <ul style="list-style-type: none"> ❑ <u>Roof Sign or Signs Extending Above Roof Ridge.</u> Any Roof Sign or sign, which is placed on, above or attached to any building roof (above the gutter line); above or on top of any marquee; or on, above, made a part of or attached to any parapet. ❑ <u>Signs That Are A Traffic Hazard.</u> Any sign, which create a traffic hazard to operators of motor vehicles or any sign, which obstructs or interferes with a motorist's vision of traffic signals. ❑ <u>Sound Or Odor Emitting Signs.</u> Any sign designed for emitting sound, odor or visible matter. ❑ <u>Statuary Signs.</u> Statuary when used for advertising purposes. ❑ <u>Temporary Signs.</u> Temporary signs except as approved in conjunction with approved signage for Coming Soon, Garage Sale, Grand-Opening, Open House Directional, Outdoor Advertising Structures as permitted by Chapter 14 of the Milpitas Municipal Code, Temporary Promotional and Temporary Tract Advertising Signs. ❑ <u>Vehicle-Mounted Signs</u>
20	There is no definition of Continuing Violation in the Sign Ordinance. This definition will enable the City to better address Sign Ordinance violations		<p>A new section 2.05-1 is added to Title XI, Chapter 30, to read as follows:</p> <p>XI-30-2.05-1 Continuing Violation <u>A violation, infringement or breach of a provision of this chapter that is uninterrupted and lasts for a continuous period in excess of 24 hours.</u></p>

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21	The Sign Ordinance does not provide a term for violations that are non-continuous and do not exceed 24 hours in duration.	<p>A new section 2.09-1 is added to Title XI, Chapter 30, to read as follows:</p> <p><u>XI-30-2.09-1 Individual Violation</u> <u>A non-continuous condition or occurrence in violation, infringement or breach of a provision of this chapter that does not exceed 24 hours in duration. An Individual Violation may be recurrent. Examples of "Individual Violations" for the purposes of this Chapter include, but are not limited to, the illegal outdoor storage of materials, entertainment events, prohibited signs, or outdoor seating in violation of a use permit.</u></p>
22	<p>The <u>Sign Ordinance</u> currently does not provide for any Administrative Citations for violations of the Ordinance. This will allow an enforcement officer to determine that:</p> <ol style="list-style-type: none"> 1. A violation is a continuing violation that does not create an immediate danger to public health and safety and give the violator 15 days to correct the violation before imposition of a fine; 2. The violation is a continuing violation that creates an immediate danger to the public health and safety, and must be summarily abated; or 3. That the violation is not a continuing violation and that the violator must be fined without the opportunity to correct the violation. 	<p>A new Section 7.01(a) is added to Title XI, Chapter 30 to read as follows:</p> <p><u>XI-30-7.01(a) Administrative Citations</u> <u>As an alternative or in addition to the declaration of nuisance and summary abatement procedures described in Section 7.01, when he or she determines that one or more violations of this Chapter have occurred, the City Manager and his/her designee may issue administrative citations pursuant to the procedures set forth in Sections V-500-8.00 through V-500-8.06. Where the violation is a continuing violation that does not create an immediate danger to public health and safety, the citation shall set forth a reasonable period of time, which shall not be less than 15 days, for the person responsible for the continuing violation to correct or otherwise remedy the violation prior to the imposition of the administrative fine. Where the violation is a continuing violation that creates an immediate danger to</u></p>

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			<p>public health and safety, the violation shall be deemed a public nuisance subject to the summary abatement provisions of Section V-500-3.08. Where the violation is associated with an event that is not a continuing violation, the person responsible for the violation shall not have an opportunity to correct or otherwise remedy the violation, and the administrative fine shall be imposed. Every recurrence of an event in violation of this chapter shall be considered a separate occurrence and shall be subject to the fine schedule outlined below.</p> <p>The schedule of fines for administrative citations issued for violations of this Chapter is as follows:</p> <ol style="list-style-type: none"> 1. Not to exceed \$100 for the first violation 2. Not to exceed \$200 for the second violation of the same code provision within twelve (12) months; and 3. Not to exceed \$500 for the third violation of the same code provision within twelve (12) months. <p>Each person that fails to pay any fine set out in an administrative citation issued pursuant to this section shall be liable for a late payment charge of 10%.</p>
23	There is no definition of Continuing Violation in the Neighborhood Beautification Ordinance (NBO). This definition will enable the City to better address intermittent, recurring code violations		<p>□ A new Section 1.04-1 is added to Title V, Chapter 500 to read as follows:</p> <p><u>V-500-1.04-1 Continuing Violation</u></p> <p><u>A violation, infringement or breach of a provision of this chapter that is uninterrupted and lasts for a continuous period in excess of 24 hours.</u></p>
24	The NBO does not provide a term for violations that are non-continuous and do not exceed 24 hours in duration.		<p>□ A new Section 1.05-1 is added to Title V, Chapter 500 to read as follows:</p> <p><u>V-500-1.05-1 Individual Violation</u></p> <p><u>A non-continuous condition or occurrence in violation,</u></p>

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			<u>infringement or breach of a provision of this chapter that does not exceed 24 hours in duration. An Individual Violation may be recurrent. Examples of "Individual Violations" for the purposes of this Chapter include, but are not limited to, the illegal outdoor storage of materials, entertainment events, prohibited signs, or outdoor seating in violation of a use permit.</u>
25	The City proposes to change the definition of "Unreasonable period of time" from thirty (30)-days to fifteen (15)-days following notification of the owner/applicant that they are in violation of the NBO and must abate the nuisance. This would shorten the time that nuisances exist before they are cleaned up or summary abatement occurs.		<p>□ Section 1.15 of Title V, Chapter 500 of the Milpitas Municipal Code is hereby amended to read as follows:</p> <p>V-500-1.15 Unreasonable Period of Time</p> <p>"Unreasonable period of time" shall mean not less than <u>fifteen (15)</u> thirty (30) calendar days following notification by the City to the owner/occupant pursuant to Section V-500-3.01 that the property is in violation of this Chapter, or in the case of a violation of Section V-500-2.01(e), not less than fifteen (15) calendar days following notification. The City Manager, upon a finding that the violation in question constitutes a threat to the health and safety of any person may designate a time period of <u>fifteen (15)</u> thirty (30) calendar days or less upon notice to the owner/occupant to abate the nuisance. Prior notice shall not be required for summary abatement pursuant to Section V-500-3.08.</p>
26	2. The NBO administrative citation provisions need to be clarified and expanded to cover non-continuing violations that are intermittent and/or recurring and to give the City the ability to levy a fine immediately for a		<p>□ A new Section 8.01-1 is added to Title V, Chapter 500, to read as follows:</p> <p><u>V-500-8.01-1 Authority To Issue An Administrative Citation</u></p> <p><u>Where an enforcement officer charged with the</u></p>

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	safety related violation and allow 15 rather than 30 days to address continuing violations.		<u>enforcement of any provision of this Chapter determines that a violation of that provision has occurred, and that the violation is a continuing violation that does not create an immediate danger to public health and safety, the citation shall set forth a reasonable period of time, which shall not be less than 15 days, for the person responsible for the continuing violation to correct or otherwise remedy the violation prior to the imposition of the administrative fine. Where the violation is a continuing violation that creates an immediate danger to public health and safety, the violation shall be deemed a public nuisance subject to the summary abatement provisions of Section V-500-3.08. Where the violation is associated with an event that is not a continuing violation, the person responsible for the violation shall not have an opportunity to correct or otherwise remedy the violation, and the administrative fine shall be imposed. Every recurrence of an event in violation of this chapter shall be considered a separate occurrence and shall be subject to the fine schedule as set forth in the schedule of fines established by resolution of the City Council.</u>
27	The Zoning Ordinance administrative citation provisions need to be clarified and expanded to cover non-continuing violations that are intermittent and/or recurring and to give the City the ability to levy a fine immediately for a safety related violation and allow 15 rather than 30 days to address continuing violations.		<p>□ Section 63.07 of Title XI, Chapter 10 of the Milpitas Municipal Code is hereby amended to read as follows:</p> <p>XI-10-63.07 Administrative Citations</p> <p>When he or she determines that one or more violations of this Chapter have occurred, the City Manager and his/her designee may issue administrative citations pursuant to the procedures set forth in Sections V-500-8.00 through V-500-8.06. Where the violation is a continuing violation that does</p>

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			<p>not create an immediate danger to public health and safety, the citation shall set forth a reasonable period of time, which shall not be less than 15 days, for the person responsible for the continuing violation to correct or otherwise remedy the violation prior to the imposition of the administrative fine. <u>Where the violation is a continuing violation that creates an immediate danger to public health and safety, the violation shall be deemed a public nuisance subject to the summary abatement provisions of Section V-500-3.08. Where the violation is associated with an event that is not a continuing violation, the person responsible for the violation shall not have an opportunity to correct or otherwise remedy the violation, and the administrative fine shall be imposed. Every recurrence of an event shall be considered a separate occurrence and shall be subject to the fine schedule outlined below.</u></p> <p>The schedule of fines for administrative citations issued for violations of this Chapter is as follows:</p> <ol style="list-style-type: none"> 1. Not to exceed \$100 for the first violation 2. Not to exceed \$200 for the second violation of the same code provision within twelve (12) months; and 3. Not to exceed \$500 for the third and subsequent violation of the same code provision within twelve (12) months. <p>Each person that fails to pay any fine set out in an administrative citation issued pursuant to this section shall be liable for a late payment charge of 10%.</p>
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SIGN APPROVALS BY TYPE OF PERMIT AND BY ZONING DISTRICT MATRIX

Sign Type	A	R1, R2, R3, R4 AR	CO	C1	C2	HS	TC	M1, M2, MP	MXD	HILLSIDE (By City Council)
Architectural	X	X	S	S	S	S	S	S	S	X
Area Identification	AP	AP	AP	AP	AP	AP	CUP	AP	AP	S or CUP
City Identification	X	AP	AP	AP	AP	AP	X	AP	AP	X
Church/Religious Assy.	X	CUP	CUP	CUP	CUP	X	X	CUP	CUP	X
Coming Soon	AP	AP	AP	AP	AP	AP	AP	AP	AP	X
Freestanding ≤6 feet	PCS	CUP	PCS	PCS	PCS	PCS	PCS	PCS	PCS	S or CUP
Freestanding > 6 feet	X	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	X
Garage Sale (on private property only)	P	P	X	X	X	X	X	X	P	P
Grand Opening	X	X	AP	AP	AP	AP	AP	AP	AP	X
Graphic Panel	PCS	CUP	PCS	PCS	PCS	PCS	PCS	PCS	PCS	X
Information	AP	AP	AP	AP	AP	AP	AP	AP	AP	X
Off-Site Directional Church, Religious Assembly, Institutional Sign	AP	AP	AP	AP	AP	AP	AP	AP	AP	X
Off Site Public Info.	X	CUP	CUP	CUP	CUP	CUP	X	CUP	X	X
Open House Directional	X	P	P	X	X	X	X	X	X	X
Political (Sec. 30-4.07)	AP	AP	AP	AP	AP	AP	AP	AP	AP	X
Projecting	X	X	AP	AP	AP	AP	AP	AP	AP	X
Public Information	S	S	S	S	S	S	S	S	S	X
Scoreboard Sign	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	X
Shopping Center Identification	X	X	X	S	S	S	S	S	S	X
Temporary Promotional	X	X	AP	AP	AP	AP	AP	AP	AP	X
Temporary Tract Advertising	CUP	X	X	CUP	CUP	X	X	CUP	CUP	X
Wall	X	CUP	AP	AP	AP	AP	AP	AP	AP	S or CUP
Window	X	X	P	P	P	P	P	P	P	X

Notes for Matrix:

AP Administrative Permit by Staff (over the counter)

P Permitted without City review

CUP Conditional Use Permit Approval Required by Planning Commission (except Hillside)

S "S" Zone Amendment by the Planning Commission (except Hillside)

PCS Planning Commission Subcommittee

X Not Permitted

* Page number refers to page in the attached report titled "Proposed Changes To Chapter 30, Signs, of The Milpitas Municipal Code. Where no page numbers are present, the exact ordinance language is provided in the "Proposed Solution" column.

PROPOSED CHANGES TO CHAPTER 30, SIGNS, OF THE MILPITAS MUNICIPAL CODE

XI-30-2 (and re-number following sections) *A-Frame Sign*

A-Frame Sign shall mean and include a sign that is portable, is capable of standing without support or attachment, and folds open in the form of an "A" or "sandwich-board" and is used for advertising purposes.

XI-30-2 (and re-number following sections) *Architectural Sign*

Architectural Sign shall mean and include a sign used for advertising purposes which constitutes an integral part of a roof or marquee and is designed with an intent and purpose to relate to the architectural style of the main building.

XI-30-2 (and re-number following sections) *Area Identification Sign*

Area Identification Sign shall mean and include a permanent sign which serves to identify an area.

XI-30-2 (and re-number following sections) *Balloon*

Balloon shall mean and include any inflatable sign or balloon that is designed to be used as an advertising device for any business or promotional event.

XI-30-2 (and re-number following sections) *Banner Sign*

Banner Sign shall mean and include a temporary sign composed of light weight, flexible, non-rigid material either enclosed or not enclosed in a rigid frame.

XI-30-2 (and re-number following sections) *Church/Religious Assembly Sign*

Church/Religious Assembly Sign shall mean and include a sign that serves to identify a building as a Church or place of Religious Assembly.

XI-30-2 (and re-number following sections) *City Identification Sign*

City Identification Sign shall mean and include a sign placed at the point of entry to the City of Milpitas for the purpose of informing a person that they are entering the City of Milpitas.

XI-30-2 (and re-number following sections) *Coming Soon Sign*

Coming Soon Sign shall mean and include a sign placed on the site of work under construction stating that a business will be opening soon.

XI-30-2 (and re-number following sections) *Grand Opening Sign*

Grand Opening Sign shall mean and include banners, pennants, flags, balloons, and similar advertising devices when used only for bona-fide grand-opening functions.

XI-30-2 (and re-number following sections) *Off-Site Directional Church/Religious Assembly/Institutional Sign*

Off-Site Directional Church/Religious Assembly/Institutional Sign shall mean and include signs erected by the City within the public right-of-way for the purpose of identifying the church/religious assembly/institution.

XI-30-2 (and re-number following sections) *Off Site Public Information Sign*

Off Site Public Information Sign shall mean and include a sign that is placed proximate to a major city entry on privately-owned property that is used to provide non-advertising information to the public.

XI-30-2 (and re-number following sections) *Portable*

Portable shall mean and include capable of being borne or carried, easily transported, or conveyed without difficulty.

XI-30-2 (and re-number following sections) *Portable Sign*

Portable Sign shall mean and include a sign that is portable and capable of being borne or carried, easily transported, or conveyed without difficulty, is capable of standing without support or attachment, is unattached to any structure, and is used for advertising purposes.

XI-30-2 (and re-number following sections) *Scoreboard Sign*

Scoreboard Sign shall mean and include a sign located on scoreboard structures located in an adult or youth outdoor ballfield on public property and shall be for products or businesses available to persons of all ages.

XI-30-2 (and re-number following sections) *Shopping Center Identification Sign*

Shopping Center Identification Sign shall mean and include a sign located on the site of a regional shopping center that states the name of the regional shopping center.

XI-30-2 (and re-number following sections) *Vehicle-Mounted Sign*

Vehicle-Mounted Sign shall mean and include a sign, used for the purpose of advertising, larger than three (3) feet by three (3) feet mounted on, attached to or capable of being borne or carried, easily transported or conveyed without difficulty by a vehicle, where that vehicle is parked on public or private property or is moving on private property or in the public right-of-way.

XI-30-2 (and re-number following sections) *Window Sign*

Window Sign shall mean and include a sign attached to, suspended behind, placed or painted upon, the window or glass door of a building, which is intended for viewing from the exterior of the building.

XI-30-2 (and re-number following sections) *Temporary Promotional Sign*

Temporary Promotional Sign shall mean and include temporary banners, and similar advertising devices when used only for special promotional events.

XI-30-2 (and re-number following sections) *Temporary Sign*

XI-30-2.36 Temporary Sign

Temporary sign shall mean and include any sign, banner, flag, valance, pennant, streamer, whirligig or advertising display, constructed of cloth, canvas, fabric, cardboard, plywood or other light material with or without a frame, whether attached or portable, and designed or intended to be displayed for a short period of time, ~~and not to exceed fourteen (14) consecutive days at any one (1) time nor more than four (4) times annually, to advertise a special event such as sales, products and services, or to promote special commercial activities such as clearance sales, new models, shipments of merchandise for sale. Signs advertising a "Grand Opening" as evidenced by a new business license, new ownership, name change or the reopening of a business which completely closed for remodeling for a least two (2) weeks may be displayed for a maximum period of thirty (30) days. (Ord. 124.23 (part), 6/15/99)~~

XI-30-2 (and re-number following sections) *Temporary Tract Advertising Sign*

Temporary Tract Advertising Sign shall mean and include a uniformly designed sign which advertises a residential development.

XI-30-3.01 Review and Approval

Permitted signs may be erected or painted upon posts, poles, buildings or structures subject to compliance with the following provisions:

(a) ~~Temporary signs as defined herein do not require City review.~~ Deleted by Ord ...

(b) The City Council, upon recommendation by the Planning Commission, shall be empowered to approve, conditionally approve or disapprove any "S" Zone Application or Use Permit for any sign(s) proposed in the Hillside district, subject to the provisions of Section XI-10-45.09, and for any signs proposed on designated historical or cultural resource buildings or sites, subject to the provisions of Section XI-4-10.00.

(c) The Planning Commission shall be empowered to approve, conditionally approve or disapprove and "S" Zone Application for any sign program(s) pursuant to Section XI-30-4.04 for multi-tenant structures, subject to the "S" Zone provisions of Section XI-10-42.

(d) The Planning Commission shall be empowered to approve, conditionally approve or disapprove freestanding signs exceeding six (6) feet in height, under the provisions of the Conditional Use Permit, as provided by Section XI-30-3.03(c) of this Chapter.

(e) The Planning Commission Subcommittee shall be empowered to approve, conditionally approve or disapprove the following signs, under the provisions of Section XI-10-42.10-2: new building signs for single-tenant structures and freestanding signs up to six (6) feet in height, as measured from the closest public sidewalk or curb, on sites which are not in the Hillside District or on designated historical or cultural resource buildings or sites.

(f) The Planning staff shall be empowered to approve, conditionally approve or disapprove the following signs, under the provisions of Section XI-10-42.10-2: signs which conform to an approved sign program and building signs which replace previously approved building signs, provided sign type, size and location are unchanged, on sites which are not in the Hillside District or on designated historical or cultural resource buildings or sites. (Ord. 124.23 (part), 6/15/99)

XI-30-3.02(a) Commercial, Industrial, Quasi-Public, Agricultural Sales

The maximum permissible total sign area for commercial, industrial, quasi-public or agricultural farm product sales will conform to the following standard:

(1) The total aggregate area of all signs permitted on any building site or property shall not exceed one (1) square foot of sign for each two (2) lineal feet of building perimeter on the subject parcel or not exceed two (2) square feet of sign for each one (1) lineal foot of public street frontage, at the applicant's discretion.

(a) For buildings or uses containing more than one (1) business, the allowable sign area as defined in Section (1) above shall be distributed to each business proportionately to the floor area of the subject business to the total floor area for all leasable structures on the parcel or site.

(b) Provided further that in the case of a shopping center or other multi-use structure containing five (5) or more stores, sign area to be allowed on those stores which have frontage on an interior pedestrian mall shall be calculated as one (1) square foot of sign area for each one (1) lineal foot of building frontage for use only on that frontage facing said area.

(c) ~~Temporary signs as defined herein shall not exceed thirty-two (32) square feet.~~ Deleted by Ord

(d) In considering the appropriateness of the design proposed for any building sign as provided in this Section, the following criteria shall be utilized by the Planning Commission, Planning Commission Subcommittee and Planning staff:

1. The relationship of the sign to the space on the building where the sign is to be located.
2. Relationship of the sub-space on which the sign will be located to the total building environment.
3. Compatibility of materials, architecture, design, and continuity with other signs on the building.
4. Illumination of the sign as it relates to other signs on the subject building.
5. The proximity of the sign to residential districts.
6. Relationship of the height of the sign to the height of the building at that location.
7. Density of other signs in the vicinity of the subject sign on or off of the subject parcel.
8. Impact of other signs in the vicinity on the subject sign.
9. And other such factors that the Planning Commission, Planning Commission Subcommittee and Planning staff shall determine as relating to the impact of the sign to the general environment. (Ord. 124.23 (part), 6/15/99)

XI-30-3.02(b) Maximum Sign Area in Residential Zones

Sign area in Residential Zones shall comply with the following requirements:

- (1) "R1" (Single Family Residential) and "AR" (Agricultural Residential) Zones: Permanent signs erected for the purpose of announcements or nameplates shall not exceed one (1) square foot.
- (2) ~~Temporary signs as defined herein shall not exceed six (6) square feet. Deleted by Ord~~
- (3) "R2" (Two Family Residential) District and "R3" (Multiple Family Residential) District: Permanent signs erected for permitted uses shall not exceed ten (10) square feet.
- (4) Conditional Uses in any Residential Zone ~~(except churches which are provided for in Subsection XI-30-3.02(b)(5) 310.F below)~~ will be allowed sign area not exceeding one (1) square foot of sign area for each three (3) lineal feet of public street frontage, provided, however, that this sign area shall not, in any case, exceed a maximum of either thirty-two (32) square feet for Valley Floor Residential Zones or twenty-four (24) square feet in the designated Hillside.
- ~~(5) Churches, when located in any residential district, shall be allowed a total sign area not to exceed one hundred (100) square feet per parcel. The maximum square footage for any individual sign, either a wall sign or freestanding sign, shall not exceed a total of fifty (50) square feet. The height of any freestanding sign shall be regulated by Sections XI-30-3.03(b)(2), (b)(3) and (b)(4) of this Chapter. (Ord. 124.23 (part), 6/15/99)~~

XI-30-3.03(b)

Freestanding signs up to six (6) feet in height shall be approved as provided in Section XI-30-3.01 above.

XI-30-3.03(c)

Freestanding signs ~~up to~~ over six (6) feet in height, including their location and architectural design (not structural) of the supporting sign structure shall be reviewed after notice and hearing by the Planning Commission under the provisions of a Conditional Use Permit. The Commission shall be empowered to approve, conditionally approve or disapprove any Use Permit for a freestanding sign. The following factors shall be considered by the Planning Commission in making its decision:

- (1) Height and size of sign.
- (2) Structure of sign.
- (3) Illumination of sign.
- (4) Proximity to residential districts.
- (5) Relationship of height and size of sign to that of parcel.
- (6) Density of other signs in vicinity.
- (7) Impact of other signs in vicinity.
- (8) And such other factors that the Planning Commission shall determine as relating to the impact of the sign to the environment.

XI-30-3.04 Design Guidelines Uniform Design and Materials (Sign Program)

Staff and decision-making bodies shall consider the following design guidelines in the review of each proposed sign: All building signs in Shopping Centers and other multi-use structures shall seek uniformity of design and materials subject to the approval of a sign program by the Planning Commission. (Ord. 124.23 (part), 6/15/99)

A. The following factors shall be considered in the review of the design of each proposed sign:

1. Visibility and legibility (letter height and legibility, contrast-background relationship, placement and location).
2. Impact on other immediate signs in terms of visibility, legibility, and scale.
3. Traffic conditions, including but not limited to, traffic safety and circulation, visibility, road width, curb cuts, or driveway indentations, median, proximity of major intersections, signals or stops, average traveling speed or any other natural physical obstruction.
4. Night-time use considerations including intensity of illumination (of a sign being reviewed, of other immediate signs and of other light sources such as street lights or canopy lights), competition and interference of light sources and intrusion of light into residential areas.
5. The proximity of the sign to residential districts.
6. Other such factors the approving body determines as relating to the impact of the sign to the general environment.

B. Each proposed sign shall be reviewed for conformity to the following criteria:

1. The sign shall relate to the architectural design of the building. An attractive scale between the sign, the building and the immediate surrounding buildings and signs shall be maintained.
2. To the extent feasible, a sign shall be graphic with design emphasis on simplicity, style, trademark, business identification and symbol. Wording shall be an integral part of the overall design.
3. All light sources shall be adequately diffused or shielded.
4. The sign's supporting structure shall be as small in density and as simple as is structurally safe.
5. Multiple signing on a single-faced building shall be reviewed for coordination of all signs architecturally and aesthetically.

6. Plastic-faced signs with white internally illuminated backgrounds are not permitted except pursuant to an Administrative Permit.
7. Neon, bare fluorescent tubes, or incandescent bulbs are not permitted except pursuant to "S" Zone approval.
8. Signage shall not obstruct pedestrian circulation.
9. Signs should be an integral part of the design of the storefronts of mixed-use buildings.
10. Sign letters and materials should be professionally designed and fabricated.
11. Signs should be constructed using high-quality materials such as metal, stone and wood.
12. Exposed conduit and tubing are prohibited. All transformers and other equipment should be concealed.
13. Projecting signs mounted perpendicular to the façade of the building should be located at least eight (8) feet above the sidewalk. The outside edge should be no more than five (5) feet from the face of the building.
14. Window signs may include one "open" or "closed" sign of less than two (2) square feet.
15. While bilingual signs are allowed, the size of English lettering should be at least equal to the size of letters of another language.

XI-30-3.06 Off-Site Signs Prohibited

All signs except Temporary Tract Advertising Signs, ~~off-tract subdivision signs~~ for subdivisions under construction in the City, open house directional signs, garage sale signs, Off-Site Directional Church/Religious Assembly/Institutional Signs, Off Site Public Information Signs, and off-site directional signs for purposes of identifying regional shopping centers per Section XI-30-4.02 of this Chapter, shall be erected only upon the site occupied by the persons or business sought to be identified or advertised by such signs. It is the intent of this limitation to prohibit the use of exterior signs for the general advertisement of products, services or other matters having no relation to the site upon which they are placed. Signs shall not extend over street or other rights-of-way except as provided for elsewhere in this Chapter.

(a) Provided further, that off-site public information signs may be permitted by the Planning Commission when said signs are located proximate to a major entry to the City and on privately owned property pursuant to Section XI-30-3.10.M.

(b) Provided further, that any church, religious assembly or institution may request up to two (2) off-site directional signs to be located by the City within the public right-of-way pursuant to Section XI-30-3.10.L. ~~Said off-site directional signs shall only include the name of the church in letters not exceeding four (4) inches in height, and an arrow specifying the appropriate direction. Requests for~~

~~such signs shall be made in writing by an authorized member of the church and shall include the general location desired for said signs. The Public Works Director shall determine the precise location and sign design based upon good traffic engineering practice, and shall provide for erection of the subject signs. (Ord. 124.23 (part), 6/15/99)~~

XI-30-3.07 Advertising Prohibited on Public Property

No merchandise shall be displayed and no person shall mark, post, paste, paint, print, nail, tack, or otherwise fasten or leave a card, banner, handbill, sign, sticker, poster, or advertisement or notice of any kind or cause the same to be done, on any real or personal property including, but not limited to any street, curb, sidewalk, alley, billboard, fence post, tree, pole, hydrant, bridge, real property or personal property or other structure within the corporate limits of the City of Milpitas, except as may be required by law.

Any violation of the above named items erected upon public property in violation of the provisions hereof may be removed and destroyed summarily by any City officer or employee. Signs so confiscated may be redeemed within ten (10) days on payment by the owner of costs of removal. The minimum charge for removal of any sign shall be Ten Dollars (\$10.00) per sign. Any sign not claimed within ten (10) days of removal shall become the property of the City.

Provided further, free-standing open house directional signs and garage sale signs may be placed within the public right-of-way pursuant to Sections XI-30-3.10 I and N respectively ~~between the face of curb and property line a distance of no closer that three (3) feet from the face of curb and shall not be placed within the vehicular or pedestrian traveled portion of said public right-of-way. Said signs shall only be allowed on Saturdays, Sundays and holidays.~~

~~Provided further that in the case of scoreboard structures located in an adult or youth outdoor ballfield on public property, the Planning Commission may after notice and hearing, permit advertising signs to be located on the scoreboard subject to a conditional use permit. Advertising on any scoreboard sign shall not exceed 30% of the total sign area and shall be for products or businesses available to persons of all ages. (Ord. 124.24, 9/7/99; Ord. 124.23 (part), 6/15/99)~~

XI 30.3.10 Signs Subject To Permits. The following signs shall be allowed pursuant to the permits required in the Zoning Districts as indicated in Matrix A and shall be regulated as follows:

- A. Architectural Sign. An Architectural Sign shall constitute an integral part of a roof or marquee and be designed with an intent and purpose to relate to the architectural style of the main building. An Architectural Sign shall not project to within 10-feet of the ground.
- B. Area Identification Sign. An Area Identification Sign shall be erected subject to the following conditions:
 - (1) The sign surface area shall not exceed twenty-five (25) square feet in Residential areas and sixty (60) square feet in Commercial and Industrial areas.
 - (2) The materials utilized for sign construction and sign support shall be relatively maintenance free.

- C. Balloon Sign. A Balloon Sign shall be less than 15 inches in diameter at its widest point, shall be securely tethered to the ground or roof and shall not constitute a hazard.
- D. Banner Sign. A Banner Sign shall not be larger than 30 inches by 24 feet in size, securely attached to a building or pole and shall be located on the premises of the business it advertises.
- E. Church/Religious Assembly Sign. A Church/Religious Assembly Sign A Church or Religious Assembly shall be allowed a total sign area not to exceed one hundred (100) square feet per parcel. The maximum square footage for any individual sign, either a wall sign or freestanding sign, shall not exceed a total of fifty (50) square feet. The height of any freestanding sign shall be regulated by Sections XI-30-3.10(H).
- F. City Identification Sign. A City Identification Sign Permanent City identification signs erected on private property do not count toward the maximum sign area limits, nor the maximum number of freestanding signs allowed on a site.
- G. Coming soon Sign. Coming Soon Signs:
1. Shall have a maximum height of eight (8) feet.
 2. Shall have a maximum area of thirty-two (32) square feet.
 3. May denote the opening date, architect, engineer, contractor, future business or lending agency
 4. Shall only be placed on the site of work under construction.
 5. Shall have a maximum of two (2) Coming Soon Signs permitted per construction site.
 6. May only be placed after issuance of a building permit for the main structure and must be removed upon final occupancy of the main structure.
- H. Freestanding Signs.
Freestanding signs shall be erected subject to the following:
- (1) Landscaped planter. Freestanding signs shall be erected in on-site landscaped planter areas.
 - (2) Number of freestanding signs on a parcel. There may be one (1) freestanding sign for each individual parcel's public street frontage. If the frontage exceeds three hundred (300) feet one (1) additional sign shall be allowed. The height of freestanding signs shall be determined from Section XI-30-3.10.h.7&8.
 - (3) Number of freestanding signs in a shopping center. In the case of a shopping center, the number of freestanding signs shall be determined as specified above, and any business within the shopping center may be advertised on any freestanding sign allocated to that shopping center as provided in the Section above.
 - (4) Square footage deducted from total. Any square footage of sign placed on a freestanding sign shall be deducted from the total amount of allowable sign area specified in Section XI-30-3.02 above.
 - (5) Approval of freestanding signs up to six (6) feet in height. Freestanding signs up to six (6) feet in height shall be approved as provided in Section XI-30-3.01 above.

- (6) Approval of freestanding signs over six (6) feet in height. Freestanding signs over six (6) feet in height, including their location and architectural design (not structural) of the supporting sign structure shall be reviewed after notice and hearing by the Planning Commission under the provisions of a Conditional Use Permit. The Commission shall be empowered to approve, conditionally approve or disapprove any Use Permit for a freestanding sign. The following factors shall be considered by the Planning Commission in making its decision:
- (a) Height and size of sign.
 - (b) Structure of sign.
 - (c) Illumination of sign.
 - (d) Proximity to residential districts.
 - (e) Relationship of height and size of sign to that of parcel.
 - (f) Density of other signs in vicinity.
 - (g) Impact of other signs in vicinity.
 - (h) And such other factors that the Planning Commission shall determine as relating to the impact of the sign to the environment.
- (7) Freestanding Sign Height in Non-Residential Zones. One (1) foot of height to a maximum of twenty-five (25) feet for each eight (8) feet of public street frontage. If a public street frontage exceeds three hundred (300) feet, then the height of the second freestanding sign shall be determined as described above, using only the public street frontage in excess of three hundred (300) feet. Any freestanding sign proposed under Section XI-30-3.10.(h).6 above may be reduced in height from the maximum twenty-five (25) foot height limit as part of the approval process specified in Section XI-30-3.10.(h).6 Refer to Section XI-30-4 of this Chapter for additional information.
- (8) Freestanding Sign Height in Residential Zones as Conditional Use. One (1) foot of height to a maximum of twenty-five (25) feet for each twenty-five (25) feet of public street frontage, except those freestanding signs on any parcel of land located in the designated Hillside which shall, in no case, exceed a height of four (4) feet measured from a warped plane parallel to the natural grade. Refer to Section XI-30-4.05 of this Chapter for additional requirements regarding Hillside signage.
- (9) Computing street frontage. Public street frontage with non-access rights or no immediate direct access such as flood control channels, but excluding landscaped planter areas, shall not be included in computing public street frontage, for purposes of determining number of freestanding signs or sign height.
- (10) Height. All freestanding sign heights shall be measured from grade level of the closest public sidewalk, curb or public street.

I. Garage Sale Sign. Garage Sale Signs:

- 7. Shall be no larger than six (6) square feet in sign area per side.
- 8. Shall be free-standing
- 9. May be placed within the public right-of-way between the face-of-curb and property line a distance of no closer that three (3) feet from the face-of-curb and shall not be placed within the vehicular or pedestrian traveled portion of the public right-of-way.
- 10. Shall only be allowed on Saturdays, Sundays and holidays.

J. Grand Opening Sign. Grand-Opening Signs:

- 11. Are permitted when used for bona-fide grand-opening functions.

12. Are effective only between fifteen (15) calendar days prior to and forty-five (45) calendar days after a business' initial occupancy, new ownership, name change or the reopening of a business that completely closed for remodeling for at least two (2) weeks.
13. May be displayed for a period not in excess of forty-five (45) consecutive calendar days.
14. Shall only be displayed on the business for which the grand-opening will occur.

K. Graphic Panel Sign. Graphic Panel Signs:

- a. Shall be located within five (5) feet of the main building wall.
 - b. Relate to the architecture of the building and depend primarily on a graphic image for delivering their advertising message.
- Note: Graphic panels do not count as freestanding signs. The display area on graphic panels counts towards overall sign area.

L. Off-Site Directional Church/Religious Assembly/Institutional Sign

- a. Any church, religious assembly or institution may request up to two (2) Off-Site Directional Church/Religious Assembly/Institutional Signs to be located by the City within the public right-of-way.
- b. These signs shall only include the name of the church, religious assembly or institution in letters not exceeding four (4) inches in height and an arrow specifying the appropriate direction.
- c. Requests for such signs shall be made in writing by an authorized member of the church representative of the church, religious assembly or institution and shall include the general location desired for said signs.
- d. The Public Works Director City Manager, or his or her designee, shall determine the precise location and sign design based on good traffic engineering practice, and shall provide for erection of the signs.
- e. An Administrative Permit will be required for such signs.

M. Off-Site Public Information Signs:

- a. May be permitted by the Planning Commission pursuant to a Conditional Use Permit when said signs are located proximate to a major entry to the City and on privately owned property.
- b. Shall be of a size, and shall be located, as determined by the Conditional Use Permit.

N. Open House Directional Signs:

- a. Shall be no larger than six (6) square feet in sign area per side.
- b. Shall be free-standing
- c. May be placed within the public right-of-way between the face-of-curb and property line a distance of no closer than three (3) feet from the face-of-curb.
- d. Shall not be placed within the vehicular or pedestrian traveled portion of the said public right-of-way.
- e. Said signs shall only be allowed on Saturdays, Sundays and holidays.

O. Political Signs

(1) Intent

Political signs are a necessary part of our political life before an election. After the election is over, political signs become litter, create a health and safety problem and encourage blight. It is the purpose of these regulations to provide for their prompt removal after election.

(2) Regulations

Except as otherwise authorized in this Section, political signs and persons posting political signs shall meet the following requirements:

(a) Scope of Regulations: Nothing contained in this Chapter shall be construed to regulate the content of any political sign.

(b) Exemption for Political Signs: Political signs shall not be included in the maximum sign area permitted for any site or use.

(c) Notification Procedures: Any person or group erecting political signs as defined in Section XI-30-2.23 of the Sign Ordinance, shall provide the Milpitas City Clerk a notice in writing, either by registered mail or in person, including the name, address and telephone number of the person or group responsible for erecting or removing the political sign. The notice shall be provided prior to erecting any political signs.

(d) Removal: The responsibility for removal shall be that of the person or group identified in the notice given pursuant to Section XI-30-4.07(b)(3) of this Chapter. All political signs shall be removed within fifteen (15) days following the election or elections to which the political sign pertains. Any political sign that is not removed within this time period is declared a public nuisance. No notice need be given by the City to that person or group to remove said sign. If the responsible person or group fails to remove any political sign, the owner of the land shall be responsible for its removal provided the owner shall be given fifteen (15) days' prior notice in writing by the City to remove said sign. Notice hereunder shall be given personally or by certified mail addressed to the owner of the land as shown on the last equalized assessment roll of the County of Santa Clara. In the exercise of the remedies provided by law or by this Chapter, City shall not be required to proceed against the property owner before proceeding against the person or group nor shall it be required to proceed against the person or group as a condition to proceeding against the landowner.

(e) Allowable Locations: Political signs shall be permitted in any zoning district on private property without permit provided that they shall conform to all the provisions of this Chapter.

In residential zoning districts, no such sign shall project above the height or from the sides of the dwelling or block access to or from any door or window and every such sign shall be placed in a manner to secure it from being blown or falling down.

No political sign shall be erected on trees, fence posts, or public utility poles or located within any public right-of-way. No political sign erected on private property shall be placed within the traffic safety visibility area at the intersection of any street.

No political sign shall be erected in such a manner that will, or reasonably may be expected to, interfere with, obstruct, confuse or mislead traffic. No political sign shall be erected in a manner that will interfere with pedestrians so as to constitute a hazardous condition. No political sign shall be erected which has less horizontal or

vertical clearance from any public utility lines than is prescribed by the State of California, or rules and regulations duly promulgated by agencies thereof.

(f) Allowable Size and Height: The following limitations and requirements shall apply:

(i) The maximum size of political signs shall be no more than thirty-two (32) square feet in all zoning districts.

(ii) The maximum height of any political sign placed in all zoning districts shall be six (6) feet, measured from the ground level to the top of the sign.

(3) Remedies

Without limitation to the remedies authorized by law or by this Chapter for the enforcement of this Chapter, City may exercise one or more of the following remedies which shall be cumulative to all other remedies:

(a) Enter on vacant property and abate the nuisance.

(b) Enter on occupied property with the consent of the owner and occupant thereof and abate the nuisance.

(c) After sending each candidate or landowner a 15 day prior notice, the City may remove any sign in violation of this Section and shall charge a fee of \$25.00 per sign for the reasonable cost of abatement. The \$25.00 fee shall also be assessed against the candidate for all signs removed by City staff which are installed or posted contrary to the provisions set forth in Section XI-30-4.07(b)(5). The City shall demand payment for the cost of abatement from the candidate or the owner of land or both and institute legal proceedings for the collection thereof.

(d) Abate the nuisance and impose a charge therefor on the land pursuant to the provisions of Chapter 2, Title II of the Milpitas Municipal Code.

(e) Institute a civil action for abatement of the nuisance.

(f) Institute a criminal proceeding against candidate or landowner, or both, for violation of the provisions of this Chapter.

(g) Abated Sign Materials: Materials from signs abated under this Chapter shall be disposed of as rubbish by the official abating said signs. (Ord. 124.23 (part), 6/15/99)

P. Projecting Sign

1. Clearance Of Projecting Signs. Projecting Signs shall have a clearance of eight (8) feet above the ground and fourteen (14) feet above a driveway, alley, or other vehicular access way.

2. Location Of Projecting Signs. Projecting Signs shall only be located on the middle one-third of the front wall of a building. This requirement may be modified by means of an "S" Zone Amendment.

3. Number of Projecting Signs. Only one Projecting Sign shall be permitted for each business located on the site.

4. Projecting Sign Areas. A Projecting Sign shall have a maximum size of sixteen (16) square feet per side unless increased pursuant to an "S" Zone Amendment.

5. Projecting Sign Projection Limit. Projecting Signs shall not extend from the front wall to which they are attached more than eight (8) feet unless modified by an "S" Zone Amendment.
6. Projecting into a public right-of-way. No such sign shall project into a public right-of-way.

Q. Public Information Sign

- f. A Public Information Sign shall be located at a prominent entry to the City of Milpitas or a significant location in the City where it will be visible to large numbers of citizens.
- g. The location, design and size of the sign will be determined by the "S" Zone Amendment.

R. Scoreboard Sign

1. Scoreboard Signs may be located on scoreboard structures located in an adult or youth outdoor ballfield on public property.
2. The Planning Commission may after notice and hearing, permit advertising signs to be located on the scoreboard subject to a conditional use permit.
3. Advertising on any scoreboard sign shall not exceed 30% of the total scoreboard area and shall be for products or businesses available to persons of all ages.

S. Shopping Center Identification Sign (see Section XI-30-4.02, Regional Shopping Centers).

T. Temporary Promotional Sign

1. Temporary Promotional Signs permitted pursuant to an Administrative Permit may be placed on a business for a maximum of fourteen (14) consecutive calendar days per permit when used for special promotional events.
2. Administrative Permits may be issued for periods of less than fourteen (14) days.
3. A Temporary Promotional Sign will be permitted a maximum of four times per calendar year per business.

U. Temporary Tract Advertising Sign

(1) Types

The City of Milpitas authorized only the following two types of Temporary Tract Advertising Signs:

- (a) "Major Signs."
 - (b) "Directional Signs."
- (2) Number of Signs Allowed

The total amount of "major signs" is limited to six (6) per tract; provided, however, that the Planning Commission in its discretion may grant additional signs upon the following conditions:

(a) Said grant will not be contrary to or materially detrimental to public interest and welfare.

(3) Restrictions

Each of the six (6) "major signs" shall:

(a) Not exceed twelve (12) feet in height including appendages.

(b) Not exceed thirty-two (32) square feet of surface area including all borders.

(c) Not to be closer than one hundred fifty (150) feet from any residential building.

(d) Not to be closer than one hundred (100) feet from any existing and authorized sign or billboard.

(e) Be set back at least fifteen (15) feet from any property boundary line on which it is to be located.

(f) Not be permitted within six hundred (600) feet of a Santa Clara County Expressway.

(4) Additional Directional Signs

Additional directional signs of a size as indicated below, under Section XI-30-4.06(4)(a) of this Chapter may be allowed, as needed, in the discretion of the Planning Commission:

(a) Directional signs shall not exceed sixteen (16) square feet of surface area. Said directional signs shall not exceed five (5) feet in height nor eight (8) feet in length.

(5) Removal of Temporary Tract Signs

No sign permit for a temporary tract sign shall be issued unless and until the applicant therefore has signed an agreement that upon cessation of the use under the permit, the sign involved will promptly be removed within fifteen (15) days after the expiration of the permit. Said agreement shall be accompanied by a refundable cash deposit of fifty (\$50) dollars per sign, which deposit may be used to defray the costs of the sign removal in the event the permit holder defaults upon the agreement, as aforesaid. If necessary, the City's agents may, after five (5) days' written notice to the original applicant and to the property owner of record, enter private property to remove such signs which shall then become the property of the City. (Ord. 124.23 (part), 6/15/99)

V. Wall Signs

1. The area of Wall Signs shall be determined by Section XI-30-3.02, Maximum Permissible Sign Area.

2. The exposed face of a Wall sign shall be installed in a plane parallel to the plane of the wall.

W. Window Signs

1. Window Signs shall be attached directly to or within twelve (12) inches of the inside of commercial establishment's windows.
2. Window Signs shall have an aggregate area not exceeding twenty-five percent (25%) of the contiguous window area of the window in which they are displayed.

XI-30-4.04 Sign Program / "S" Zone approval

- (a) Signage for a new retail, office or industrial complex on four (4) or more acres having a gross floor area of 40,000 square feet or larger, a multi-tenant building, a new automobile dealership, or any buildings more than two (2) stories high shall be subject to a Sign Program/"S" Zone approval to be reviewed by the Planning Commission pursuant to Section XI-10-42 "S" Combining District (Site and Architectural Review or "S" Zone).
- (b) An existing or proposed retail, office or industrial complex (all of the businesses in the complex or shopping center, not an individual business in a complex or shopping center), multi-tenant building, automobile dealership or building more than two (2) stories high, regardless of the size of the site on which it is located, may apply for a Sign Program/"S" Zone approval to be reviewed by the Planning Commission.
- (c) A Sign Program may deviate from the standards of the Sign Regulations if the Planning Commission makes the following findings:
 1. That the program's contribution to effective and attractive identification of businesses, services and uses and the design quality of the site and surrounding area will be superior to the quality that would result under the regulations and standards of the Sign Regulations; and
 2. That all of the proposed signs of the retail, office or industrial complex, multi-tenant building, shopping center, automobile dealership or building are well related to each other, and compatible with the style or character of existing improvements on the site and adjacent sites;
 3. That all of the proposed signage shall generally conform with the Design Guidelines in Section XI-30-3.04;
 4. No signs in the Sign Program are Prohibited Signs as regulated in Section 6; and
 5. That the requirements of Section XI-10-42.03 are met.

XI-30-4.05 Hillside Combining District

Signs in the Hillside combining district shall conform to the following:

- (a) Permanent signs erected for the purpose of announcements or nameplates shall not exceed one (1) square foot.
- (b) ~~Temporary signs as defined herein shall not exceed six (6) square feet. Deleted by Ord~~
- (c) Maximum sign area for conditional uses shall be limited to one (1) square foot of sign area for each three (3) lineal feet of public street frontage, but shall, in no case, exceed twenty-four (24) square feet. See exception in Section XI-30-3.02(b)(5) of this Chapter relating to sign area for churches.

- (d) Freestanding signs on any parcel of land located in the designated Hillside shall, in no case, exceed a height of four (4) feet measured from a warped plane parallel to the natural grade.
- (e) Any sign over one (1) square foot in area located in the designated Hillside shall be constructed of either wood or masonry materials. Incised lettering or individual letters, numbers, symbols, etc., of a metallic material mounted on said wood or masonry structure is permitted. Furthermore, all such lettering may only be illuminated by external or indirect means. (Ord. 124.23 (part), 6/15/99)

XI-30-5.01 Signs Exempted

Permits shall not be required for the following types of signs:

- (a) Traffic or other municipal signs, legal notices, railroad crossings signs, danger and emergency signs.
- ~~(b) Temporary signs as defined herein. Deleted by Ord...~~
- (c) Repainting or cleaning (or changing of the advertising copy thereon) of an advertising structure shall not be considered an erection or alteration which requires a sign permit unless a structural change is made.
- (d) Memorial sign or tablets, erected by recognized historical agencies, or names of buildings and date of erection when cut into masonry surface or when constructed of bronze or other incombustible letters and affixed flat against the wall of such building.
- (e) Signs regulating on-premises traffic and parking when less than twelve (12) square feet in area.
- (f) ~~Temporary~~ Window sales signs attached directly to or within twelve (12) inches of the inside of commercial establishments' windows, provided that the aggregate area of said temporary window signs shall not exceed twenty-five (25) percent of the window area.
- (g) Signs used by public utilities for the safety, welfare or convenience of the public shall be exempt from the provisions of this ordinance.
- (h) Poles, structures or other housings intended for the purpose of flying or otherwise displaying of the United States flag, California State flag, City or County flag or flag of any similar public agency are exempt from the approval provisions of Sections XI-30-3.01, XI-30-3.03 (b) and XI-30-3.03(c). The flags specified herein are exempt from all other permit requirements.
- (i) House numbers, name plate or identification of house members (provided sign does not exceed two (2) square feet maximum area), mail box identification, street names, "no-trespass" signs, and other warning signs.
- (j) Signs for the California State Lottery approved by the Lottery Commission for display by Lottery Game Retailers.
- (k) Murals or other artistic paintings on walls, provided no logos, emblems or other similar devices, sign copy or illustrations of activities associated with uses on the premises or in the vicinity are included in the mural or painting.
- (l) On-Site Temporary For Sale Or Lease Signs, which shall:

1. Not exceed a maximum area of sixteen (16) square feet per side.
2. Be limited to one (1) such sign placed for each one hundred (100) feet of street frontage, up to a maximum of two (2) signs per parcel.
3. Have a maximum height of eight (8) feet.
5. State that the property is for sale, lease or exchange by the owner or his or her agent and the name, address and phone number of the owner or agent and/or agency and directions;

6. Be painted a light color;
 5. Be constructed of wood, plywood, metal or other rigid material; and
 7. Not be placed on a private or public right-of-way.
 8. If advertising a tenant space, the sign shall be located on the tenant space
- ~~(i)~~ (m) Other signs similar to the above as provided for in Section XI-30-10.02 of this Chapter. (Ord. 424.23 (part), 6/15/99)
- N. Information Sign. An Information Sign:
1. Shall provide courtesy information or direction to the public without advertising the business products or services such as hours, entrance, exit, self-serve, credit cards, restrooms, telephone drive-up;
 2. Or shall serve to direct motorist and pedestrians on private property;
 3. Shall not be larger than Twelve (12) square feet in size; and,
 4. Shall not be a traffic hazard.

XI-30-6.01 Prohibited Signs. The following signs, or signs which contain the following elements, are prohibited Signs.

- A. A-Frame Signs. Any A-Frame Sign with the exception of public service signs and open house directional signs.
- B. Blinking, Flashing Lights. Any sign having blinking, flashing or fluttering lights, or any other illuminating device which has a changing light intensity, brightness or color.
- C. Off-Site Signs. Off-site signs as regulated by Section XI-30-3.06 except for Temporary Tract Advertising Signs, Regional Shopping Centers signage as regulated in Section XI-30-4.02, Open-House Directional Signs and Off-Site Directional Signs for churches, religious assembly or institutions.
- D. On Public Property. Any sign located on public property as regulated by Section XI-30-3.07.
- E. Other Advertising Structure.
- F. Outdoor Advertising Structures unless permitted pursuant to Chapter 14 of the Municipal Code.
- G. Portable Signs. Any Portable Sign with the exception of public service signs and open house directional signs.
- H. Privately owned signs Resembling Traffic Signs. Any privately owned sign resembling any public directional sign or traffic control device.
- I. Reflective Signs. Privately erected signs using colors that contain reflective properties.

- J. Rotating or Moving Signs. Any sign which revolves, rotates, moves in any manner or creates the illusion of movement, rotation or revolvment, or has any visible moving, revolving or rotating surfaces or parts, is held and/or moved by a human being or animal.
- K. Roof Sign or Signs Extending Above Roof Ridge. Any Roof Sign or sign, which is placed on, above or attached to any building roof (above the gutter line); above or on top of any marquee; or on, above, made a part of or attached to any parapet.
- L. Signs That Are A Traffic Hazard. Any sign, which creates a traffic hazard to operators of motor vehicles or any sign, which obstructs or interferes with a motorist's vision of traffic signals.
- M. Sound Or Odor Emitting Signs. Any sign designed for emitting sound, odor or visible matter.
- N. Statuary Signs. Statuary when used for advertising purposes.
- O. Temporary Signs. Temporary signs except as approved in conjunction with approved signage for Coming Soon, Grand-Opening, Open House Directional, Outdoor Advertising Structures as permitted pursuant to Chapter 14 of the Milpitas Municipal Code and Temporary Promotional and Temporary Tract Advertising Signs.
- P. Vehicle-Mounted Signs

SIGN APPROVALS BY TYPE OF PERMIT AND BY ZONING DISTRICT MATRIX

Sign Type	A	R1, R2, R3, R4 AR	CO	C1	C2	HS	TC	M1, M2, MP	MXD	HILLSIDE (By City Council)
Architectural	X	X	S	S	S	S	S	S	S	X
Area Identification	AP	AP	AP	AP	AP	AP	CUP	AP	AP	S or CUP
City Identification	X	AP	AP	AP	AP	AP	X	AP	AP	X
Church/Religious Assy.	X	CUP	CUP	CUP	CUP	X	X	CUP	CUP	X
Coming Soon	AP	AP	AP	AP	AP	AP	AP	AP	AP	X
Freestanding ≤6 feet	PCS	CUP	PCS	PCS	PCS	PCS	PCS	PCS	PCS	S or CUP
Freestanding > 6 feet	X	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	X
Garage Sale (on private property only)	P	P	X	X	X	X	X	X	P	P
Grand Opening	X	X	AP	AP	AP	AP	AP	AP	AP	X
Graphic Panel	PCS	CUP	PCS	PCS	PCS	PCS	PCS	PCS	PCS	X
Information	AP	AP	AP	AP	AP	AP	AP	AP	AP	X
Off-Site Directional Church, Religious Assembly, Institutional Sign	AP	AP	AP	AP	AP	AP	AP	AP	AP	X
Off Site Public Info.	X	CUP	CUP	CUP	CUP	CUP	X	CUP	X	X
Open House Directional	X	P	P	X	X	X	X	X	X	X
Political (Sec. 30-4.07)	AP	AP	AP	AP	AP	AP	AP	AP	AP	X
Projecting	X	X	AP	AP	AP	AP	AP	AP	AP	X
Public Information	S	S	S	S	S	S	S	S	S	X
Scoreboard Sign	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	X
Shopping Center Identification	X	X	X	S	S	S	S	S	S	X
Temporary Promotional	X	X	AP	AP	AP	AP	AP	AP	AP	X
Temporary Tract Advertising	CUP	X	X	CUP	CUP	X	X	CUP	CUP	X
Wall	X	CUP	AP	AP	AP	AP	AP	AP	AP	S or CUP
Window	X	X	P	P	P	P	P	P	P	X

Notes for Matrix:

- AP Administrative Permit by Staff (over the counter)
- P Permitted without City review
- CUP Conditional Use Permit Approval Required by Planning Commission (except Hillside)
- S "S" Zone Amendment by the Planning Commission (except Hillside)
- PCS Planning Commission Subcommittee
- X Not Permitt

REGULAR

ORDINANCE NO. 124.27

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS REPEALING CHAPTER 30 OF TITLE XI OF THE MILPITAS MUNICIPAL CODE, "SIGNS," AND REPLACING IT WITH A NEW CHAPTER 30 OF TITLE XI OF THE MILPITAS MUNICIPAL CODE, "SIGNS", AND AMENDING SECTION 1.15 OF TITLE V, CHAPTER 500 OF THE MILPITAS MUNICIPAL CODE, SECTION 63.07 OF TITLE XI, CHAPTER 10, AND ADOPTING FIVE NEW SECTIONS ADDING NEW DEFINITIONS FOR "CONTINUING VIOLATION" AND "INDIVIDUAL VIOLATION" AS SECTIONS 1.04-1, 1.05-1, 2.05-1 AND 2.09-1, RESPECTIVELY, OF TITLE V, CHAPTER 500 AND TITLE XI, CHAPTER 30, AND ADDING NEW SECTIONS 8.01-1 TO TITLE V, CHAPTER 500, EXPANDING ON THE AUTHORITY OF ENFORCEMENT OFFICERS TO ISSUE ADMINISTRATIVE CITATIONS, AND 7.01(A) TO TITLE XI, CHAPTER 30, PROVIDING FOR AUTHORITY TO ISSUE ADMINISTRATIVE CITATIONS FOR VIOLATIONS OF THE SIGN ORDINANCE.

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of October 5, 2004, upon motion by _____ and was adopted (second reading) by the City Council at its meeting of October 19, 2004, upon motion by Councilmember _____. Said Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

ATTACHMENT 3

Gail Blalock, City Clerk

Jose Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

ORDAINING CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

Section 1

Chapter 30 of Title XI of the Milpitas Municipal Code, "Signs," is hereby repealed in its entirety.

Section 2.

A new Chapter 30 of Title XI, to be titled "Signs," is hereby added to the Milpitas Municipal Code, to read as follows:

Chapter 30 SIGNS*

* Prior ordinance history: Ords. 124, 124.1, 124.2, 124.8, 124.9, 124.10, 124.11, 124.12, 124.13, 124.14, 124.15, 124.16, 124.18, 124.19, 124.20, 124.21 and 124.22.

Section 1 Purpose, Application, Notices

XI-30-1.01 Purpose and Intent

The City Council declares the purpose of this Chapter is to provide for regulation of all signs which are publicly displayed in the City of Milpitas. It is recommended that the safety of pedestrians and vehicles, protection against fire, and the enhancement of the outward appearance of the community are important factors in the general welfare of the people, and that accordingly reasonable control of such signs by ordinances is in the public interest. (Ord. 124 (part), 7/20/65)

XI-30-1.02 Application

The provisions of this Chapter are in addition to other requirements of the ordinances of the City of Milpitas and Milpitas Municipal Code imposed upon signs including, but not limited to the requirements of the following (and amendment thereto):

Ordinance No.	Chapter	Title	Common Name
38	10	XI	Zoning Ordinance
65	1	II	Building Ordinance

(Ord. 124.15 (1), 4/3/90; Ord. 124 (part), 7/20/65)

XI-30-1.03 Notices, Hearings, Abatement

Notices, hearings and abatement procedures herein provided shall be given and held in accordance with the provisions of the Standard Procedures Chapter of the Milpitas Municipal Code. (Ord. 124 (part), 7/20/65)

Section 2 Definitions

XI-30-2.01 General Definitions

For the purpose of this Code, certain abbreviations, terms, phrases, words and their derivations shall be construed as specified in this section. Words used in the singular include the plural, and the plural, the singular; the word "building" includes the word "structure." The word "shall" is mandatory. (Ord. 124 (part), 7/20/65)

XI-30-2.02 A-Frame Sign

A-Frame Sign shall mean and include a sign that is portable, is capable of standing without support or attachment, and folds open in the form of an "A" or "sandwich-board" and is used for advertising purposes.

XI-30-2.03 Approved Plastics

Approved plastic materials shall be those specified in the U.B.C. Standard No. 52-1 which have a flamespread rating of 225 or less and a smoke density not greater than that obtained from the burning of untreated wood under similar conditions when tested in accordance with U.B.C. Standard No. 42-1 in the way intended for use. The products of combustion shall be no more toxic than the burning of untreated wood under similar conditions. (Ord. 124.8, 9/17/74; Ord. 124 (part), 7/20/65)

XI-30-2.04 Architectural Sign

Architectural Sign shall mean and include a sign used for advertising purposes which constitutes an integral part of a roof or marquee and is designed with an intent and purpose to relate to the architectural style of the main building.

XI-30-2.05 Area Identification Sign

Area Identification Sign shall mean and include a permanent sign which serves to identify an area.

XI-30-2.06 Balloon

Balloon shall mean and include any inflatable sign or balloon that is designed to be used as an advertising device for any business or promotional event.

XI-30-2.07 Banner Sign

Banner Sign shall mean and include a temporary sign composed of light weight, flexible, non-rigid material either enclosed or not enclosed in a rigid frame.

XI-30-2.08 Building Perimeter

Building perimeter shall mean the total exterior wall length for any and all buildings intended for human occupancy, as measured at the ground elevation. No second story or subsequent upper story areas shall be considered as a part of this calculation. (Ord. 124.23 (part), 6/15/99)

XI-30-2.09 Candidate

Any person, party, referendum, initiative or other ballot measure. (Ord. 124.23 (part), 6/15/99)

XI-30-2.10 Church/Religious Assembly Sign

Church/Religious Assembly Sign shall mean and include a sign that serves to identify a building as a Church or place of Religious Assembly.

XI-30-2.11 City

"City" shall mean the City of Milpitas. (Ord. 124.23 (part), 6/15/99)

XI-30-2.12 City Identification Sign

City Identification Sign shall mean and include a sign placed at the point of entry to the City of Milpitas for the purpose of informing a person that they are entering the City of Milpitas.

XI-30-2.13 Coming Soon Sign

Coming Soon Sign shall mean and include a sign placed on the site of work under construction stating that a business will be opening soon.

XI-30-2.14 Directional Sign

Directional signs shall mean a sign which guides and directs motorists to a specified destination in the most direct manner possible. (Ord. 124.23 (part), 6/15/99)

XI-30-2.15 Display Surface

"Display surface" is the area made available by the sign structure of building surface for the purpose of displaying the advertising message. (Ord. 124.23 (part), 6/15/99)

XI-30-2.16 Electric Sign

Electric sign shall mean any sign containing electrical wiring, but not including signs illuminated by an exterior light source. (Ord. 124.23 (part), 6/15/99)

XI-30-2.17 Erect

"Erect" shall mean to build, construct, attach, hang, place, suspend or affix. (Ord. 124.23 (part), 6/15/99)

XI-30-2.18 Freestanding Sign

Freestanding sign shall mean a sign which is supported by one or more uprights, poles, or braces in or upon the ground, or partially supported and attached to any building, other structure or foundation on the ground. (Ord. 124.23 (part), 6/15/99)

XI-30-2.19 Garage Sale Sign

A sign used primarily for the purpose of advertising a "garage sale" and/or "yard sale" at a residence. (Ord. 124.23 (part), 6/15/99)

XI-30-2.20 Grand Opening Sign

Grand Opening Sign shall mean and include banners, pennants, flags, balloons, and similar advertising devices when used only for bona-fide grand-opening functions.

XI-30-2.21 Graphic Panel (Freestanding)

A freestanding sign located within five (5) feet of the main building wall, which relates to the architecture of the building and depends primarily on a graphic image for delivering its advertising message. Graphic panels do not count as freestanding signs. The display area on graphic panels counts towards overall sign area. (Ord. 124.23 (part), 6/15/99)

XI-30-2.22 Impact Resistive Plastic

Impact Resistive Plastic is any plastic material capable of resisting fifty (50) foot pounds of force as tested in accordance with ANSI/UL 972 Multiple Impact Test or any similar test procedure. (Ord. 124.23 (part), 6/15/99)

XI-30-2.23 Information Sign

"Information Sign" shall mean and include signs providing courtesy information or direction to the public without advertising the business products or services such as hours, entrance, exit, self-serve, credit cards, restrooms, telephone drive-up, or which serves to direct motorist and pedestrians on private property. (Ord. 124.23 (part), 6/15/99)

XI-30-2.24 Non-Combustible Material

"Non-combustible material" is any material which will not ignite at, or below a temperature of one thousand two hundred (1200) degrees during an exposure of five (5) minutes, and which will not continue to burn or glow at that temperature. Tests shall be made as specified in U.B.C. Standard No. 4-1. (Ord 124.23 (part), 6/15/99)

XI-30-2.25 Marquee

"Marquee" is a permanent roofed structure, attached to, and support by the building and projecting beyond the main building. (Ord. 124.23 (part), 6/15/99)

XI-30-2.26 Multi-Use Structures

Any commercial, industrial, quasi public, or agricultural farm products sales use, containing five (5) or more stores or businesses on a single parcel of land. (Ord. 124.23 (part), 6/15/99)

XI-30-2.27 Non-Structural Trim

Non-structural trim shall mean the molding, battens, cappings, nailing strips, latticing, cutout, or letters and walkways which are attached to the sign structure. (Ord. 124.23 (part), 6/15/99)

XI-30-2.28 Off-Site Directional Church/Religious Assembly/Institutional Sign

Off-Site Directional Church/Religious Assembly/Institutional Sign shall mean and include signs erected by the City within the public right-of-way for the purpose of identifying the church/religious assembly/institution.

XI-30-2.29 Off- Site Public Information Sign

Off-Site Public Information Sign shall mean and include a sign that is placed proximate to a major city entry on privately owned property that is used to provide non-advertising information to the public.

XI-30-2.30 Open House Directional Sign

A sign, no larger than six (6) square feet in sign area per side, used primarily for the purpose of directing traffic to a house being offered for sale or lease. (Ord. 124.23 (part), 6/15/99)

XI-30-2.31 Other Advertising Structure

"Other advertising structure" shall mean any device erected or used for the same purpose as a sign, whether erected or used:

(1) Exclusively for advertising purposes, upon which any poster bill, printing, painting device or other advertisement or identification of any kind whatsoever may be placed, posted, painted, fastened or affixed.

(2) Exclusively for advertising purposes and including any spectacle, display or advertising statuary. (Ord. 124.23 (part), 6/15/99)

XI-30-2.32 Permanent Sign

"Permanent sign" shall mean and include every sign except temporary sign as defined herein. (Ord. 124.23 (part), 6/15/99)

XI-30-2.33 Person

"Person" shall mean and include any natural person, firm, partnership, association, corporation, company or organization of any kind. (Ord. 124.23 (part), 6/15/99)

XI-30-2.34 Political Signs

A political sign is a sign which is designated to influence the action of the voters, and election or defeat of a candidate for the nomination or election to any public office or a measure appearing on the ballot at any national, state, district or local election. (Ord. 124.23 (part), 6/15/99)

XI-30-2.35 Portable

Portable shall mean and include capable of being borne or carried, easily transported, or conveyed without difficulty.

XI-30-2.36 Portable Sign

Portable Sign shall mean and include a sign that is portable and capable of being borne or carried, easily transported, or conveyed without difficulty, is capable of standing without support or attachment, is unattached to any structure, and is used for advertising purposes.

XI-30-2.37 Projection

Projection means the distance by which a sign extends over public property or beyond the building line. (Ord. 124.23 (part), 6/15/99)

XI-30-2.38 Projecting Sign

Projecting sign shall mean a sign other than a wall sign which projects from and is supported by a wall of a building or structure. (Ord. 124.23 (part), 6/15/99)

XI-30-2.39 Public Information Sign

Public Information sign shall mean a sign erected for the sole purpose of displaying advertising for a community activities and/or identification symbols or plaques for civic organizations or service clubs. (Ord. 124.23 (part), 6/15/99)

XI-30-2.40 Public Street Frontage

A publicly owned street immediately adjacent to the parcel, for purposes of sign area and height calculations. Public streets for which the parcel does not have access rights are not included for purposes of any sign calculations. (Ord. 124.23 (part), 6/15/99)

XI-30-2.41 Regional Shopping Center

Any commercial development on one (1) or more parcels of land which are contiguous or across from a right-of-way which contains a gross land area of at least thirty (30) acres or a gross building area of at least 200,000 square feet. Current regional shopping centers are McCarthy Ranch Marketplace, the Town Center shopping center, and the Great Mall and its outparcels zoned General Commercial. (Ord. 124.23 (part), 6/15/99)

XI-30-2.42 Roof Sign

Roof sign shall mean a sign erected upon or above a roof or a part of a parapet of a building or structure. (Ord. 124.23 (part), 6/15/99)

XI-30-2.43 Scoreboard Sign

Scoreboard Sign shall mean and include a sign located on scoreboard structures located in an adult or youth outdoor ballfield on public property and shall be for products or businesses available to persons of all ages.

XI-30-2.44 Shopping Center

Any commercial development containing five (5) or more stores or businesses on one (1) or more parcels of land operating as an integrated use and having a gross parcel area of five (5) or more acres. (Ord. 124.23 (part), 6/15/99)

XI-30-2.45 Shopping Center Identification Sign

Shopping Center Identification Sign shall mean and include a sign located on the site of a regional shopping center that states the name of the regional shopping center.

XI-30-2.46 Sign

"Sign" shall mean and include every announcement, declaration, demonstration, display, illustration insignia, surface or space when erected or maintained out of doors in view of the general public for identification, advertisement or promotion of the interests of any person. (Ord. 124.23 (part), 6/15/99)

XI-30-2.47 Sign Area

The area of a sign shall be calculated to include all lettering, wording, and accompanying designs or symbols, together with any background of a different material or color than the remainder of the wall of the building to which is affixed or upon which it is painted.

Where the sign consists of individual letters or symbols, the area shall be considered to be that of the smallest rectangle, circle, square, or triangle which can be drawn to encompass all of the letters.

Provided however, that where such individual type letters or symbols are separated more than thirty-six (36) inches from each other, those letters or symbols shall be calculated separately.

If the sign has more than one (1) advertising surface, the sum of all the areas of all such surfaces shall be the area of the advertising surface of such sign except that if two (2) surfaces on the same face in opposite directions (i.e., the relative angles between the directions they face is 180 degrees) and the distance between such two (2) surfaces is not more than twenty-four (24) inches, then the area of only one of the two surfaces (the largest if they are not equal) shall be included in the computation. (Ord. 124.23 (part), 6/15/99)

XI-30-2.48 Sign Surface

"Sign surface" shall mean the surface of the sign upon, against or through which the message is displayed or illustrated. (Ord. 124.23 (part), 6/15/99)

XI-30-2.49 Temporary Sign

Temporary sign shall mean and include any sign, banner, flag, valance, pennant, streamer, whirligig or advertising display, constructed of cloth, canvas, fabric, cardboard, plywood or other light material with or without a frame, whether attached or portable, and designed or intended to be displayed for a short period of time.

XI-30-2.50 Temporary Promotional Sign

Temporary Promotional Sign shall mean and include temporary banners, and similar advertising devices when used only for special promotional events.

XI-30-2.51 Temporary Tract Advertising Sign

Temporary Tract Advertising Sign shall mean and include a uniformly designed sign which advertises a residential development.

XI-30-2.52 Vehicle-Mounted Sign

Vehicle-Mounted Sign shall mean and include a sign, used for the purpose of advertising, larger than three (3) feet by three (3) feet mounted on, attached to or capable of being borne or carried, easily transported or conveyed without difficulty by a vehicle, where that vehicle is parked on public or private property or is moving on private property or in the public right-of-way.

XI-30-2.53 Wall Sign

"Wall Sign" shall mean any sign painted on, attached to or erected against the wall of a building or structure. (Ord. 124.23 (part), 6/15/99)

XI-30-2.54 Window Sign

Window Sign shall mean and include a sign attached to, suspended behind, placed or painted upon, the window or glass door of a building, which is intended for viewing from the exterior of the building.

Section 3 General Regulations

XI-30-3.01 Review and Approval

Permitted signs may be erected or painted upon posts, poles, buildings or structures subject to compliance with the following provisions:

(a) Hillside district. The City Council, upon recommendation by the Planning Commission, shall be empowered to approve, conditionally approve or disapprove any

"S" Zone Application or Use Permit for any sign(s) proposed in the Hillside district, subject to the provisions of Section XI-10-45.09, and for any signs proposed on designated historical or cultural resource buildings or sites, subject to the provisions of Section XI-4-10.00.

(b) Sign Program. The Planning Commission shall be empowered to approve, conditionally approve or disapprove a "S" Zone Application for a sign program(s) pursuant to Section XI-30-4.04, Sign Programs.

(c) Signs exceeding six (6) feet. The Planning Commission shall be empowered to approve, conditionally approve or disapprove freestanding signs exceeding six (6) feet in height, under the provisions of the Conditional Use Permit, as provided by Section XI-30-3.10(h)6 of this Chapter.

(d) The Planning Commission Subcommittee shall be empowered to approve, conditionally approve or disapprove the following signs, under the provisions of Section XI-10-42.10-2: new building signs for single-tenant structures and freestanding signs up to six (6) feet in height, as measured from the closest public sidewalk or curb, on sites which are not in the Hillside District or on designated historical or cultural resource buildings or sites.

(e) The Planning staff shall be empowered to approve, conditionally approve or disapprove the following signs, under the provisions of Section XI-10-42.10-2: signs which conform to an approved sign program and building signs which replace previously approved building signs, provided sign type, size and location are unchanged, on sites which are not in the Hillside District or on designated historical or cultural resource buildings or sites. (Ord. 124.23 (part), 6/15/99)

XI-30-3.02 Maximum Permissible Sign Area

XI-30-3.02(a) Commercial Industrial, Quasi-Public, Agricultural Sales

The maximum permissible total sign area for commercial, industrial, quasi-public or agricultural farm product sales will conform to the following standard:

(1) The total aggregate area of all signs permitted on any building site or property shall not exceed one (1) square foot of sign for each two (2) lineal feet of building perimeter on the subject parcel or not exceed two (2) square feet of sign for each one (1) lineal foot of public street frontage, at the applicant's discretion.

(a) For buildings or uses containing more than one (1) business, the allowable sign area as defined in Section (1) above shall be distributed to each business proportionately to the floor area of the subject business to the total floor area for all leasable structures on the parcel or site.

(b) Provided further that in the case of a shopping center or other multi-use structure containing five (5) or more stores, sign area to be allowed on those stores which have frontage on an interior pedestrian mall shall be calculated as one (1) square foot of sign area for each one (1) lineal foot of building frontage for use only on that frontage facing said area.

(c) Criteria. In considering the appropriateness of the design proposed for any building sign as provided in this Section, the following criteria shall be utilized by the Planning Commission, Planning Commission Subcommittee and Planning staff:

1. The relationship of the sign to the space on the building where the sign is to be located.
2. Relationship of the sub-space on which the sign will be located to the total building environment.
3. Compatibility of materials, architecture, design, and continuity with other signs on the building.
4. Illumination of the sign as it relates to other signs on the subject building.
5. The proximity of the sign to residential districts.
6. Relationship of the height of the sign to the height of the building at that location.
7. Density of other signs in the vicinity of the subject sign on or off of the subject parcel.
8. Impact of other signs in the vicinity on the subject sign.
9. And other such factors that the Planning Commission, Planning Commission Subcommittee and Planning staff shall determine as relating to the impact of the sign to the general environment. (Ord. 124.23 (part), 6/15/99)

XI-30-3.02(b) Maximum Sign Area in Residential Zones

Sign area in Residential Zones shall comply with the following requirements:

(1) "R1" (Single Family Residential) and "AR" (Agricultural Residential) Zones: Permanent signs erected for the purpose of announcements or nameplates shall not exceed one (1) square foot.

(2) "R2" (Two Family Residential) District and "R3" (Multiple Family Residential) District: Permanent signs erected for permitted uses shall not exceed ten (10) square feet.

(3) Conditional Uses in any Residential Zone (except Church/Religious Assembly Signs which are provided for in Subsection XI-30-3.10 will be allowed sign area not exceeding one (1) square foot of sign area for each three (3) lineal feet of public street frontage, provided, however, that this sign area shall not, in any case, exceed a maximum of either thirty-two (32) square feet for Valley Floor Residential Zones or twenty-four (24) square feet in the designated Hillside.

XI-30-3.02(c) Limitations on Public Street Frontage.

Public street frontage with non-access rights or no immediate direct access, such as flood control channels, but excluding landscaped planter areas, shall not be included in computing public street frontage for purposes of sign area calculations. Refer to Section XI-30-4.02(b) of this Chapter for additional information relating to regional shopping centers. (Ord. 124.23 (part), 6/15/99)

Section XI-30-3.03 not used

XI-30-3.04 Design Guidelines

Staff and decision-making bodies shall consider the following design guidelines in the review of each proposed sign:

- (a). The following factors shall be considered in the review of the design of each proposed sign:
1. Visibility and legibility (letter height and legibility, contrast-background relationship, placement and location).
 2. Impact on other immediate signs in terms of visibility, legibility, and scale.
 3. Traffic conditions, including but not limited to, traffic safety and circulation, visibility, road width, curb cuts, or driveway indentations, median, proximity of major intersections, signals or stops, average traveling speed or any other natural physical obstruction.
 4. Night-time use, considerations including intensity of illumination (of a sign being reviewed, of other immediate signs and of other light sources such as street lights or canopy lights), competition and interference of light sources and intrusion of light into residential areas.
 5. The proximity of the sign to residential districts.
 6. Other such factors the approving body determines as relating to the impact of the sign to the general environment.
- (b) Each proposed sign shall be reviewed for conformity to the following criteria:
1. The sign shall relate to the architectural design and materials of the building. An attractive scale between the sign, the building and the immediate surrounding buildings and signs shall be maintained.
 2. To the extent feasible, a sign shall be graphic with design emphasis on simplicity, style, trademark, business identification and symbol. Wording shall be an integral part of the overall design.
 3. All light sources shall be adequately diffused or shielded.
 4. The sign's supporting structure shall be as small in density and as simple as is structurally safe.
 5. Multiple signing on a single-faced building shall be reviewed for coordination of all signs architecturally and aesthetically.
 6. Plastic-faced signs with white internally illuminated backgrounds are not permitted except pursuant to an Administrative Permit.
 7. Neon, bare fluorescent tubes, or incandescent bulbs are not permitted except pursuant to "S" Zone approval.
 8. Signage shall not obstruct pedestrian circulation.
 9. Signs should be an integral part of the design of the storefronts of mixed-use buildings.
 10. Sign letters and materials should be professionally designed and fabricated.
 11. Signs should be constructed using high-quality materials such as metal, stone and wood.
 12. Exposed conduit and tubing are prohibited. All transformers and other equipment should be concealed.
 13. Projecting signs mounted perpendicular to the façade of the building should be located at least eight (8) feet above the sidewalk. The outside edge should be no more than five (5) feet from the face of the building.
 14. Window signs may include one "open" or "closed" sign of less than two (2) square feet.
 15. While bilingual signs are allowed, the size of English lettering should be at least equal to the size of letters of another language.

XI-30-3.05 Impact Resistive Plastic

- (1) Impact Resistive Plastic shall be used on all internally illuminated signs utilizing plastic sign faces.
- (2) Whenever a plastic internally illuminated sign face, advertising copy or message becomes damaged and is to be replaced, said sign face shall be replaced with a sign face constructed of impact resistive plastic, as defined herein. (Ord. 124.23 (part), 6/15/99)

XI-30-3.06 Off-Site Signs Prohibited

All signs except Temporary Tract Advertising Signs, for subdivisions under construction in the City, open house directional signs, garage sale signs, Off-Site Directional Church/Religious Assembly/Institutional Signs, Off Site Public Information Signs, outdoor advertising structures as permitted by Chapter 14 of the Milpitas Municipal Code and off-site directional signs for purposes of identifying regional shopping centers per Section XI-30-4.02 of this Chapter, shall be erected only upon the site occupied by the persons or business sought to be identified or advertised by such signs. It is the intent of this limitation to prohibit the use of exterior signs for the general advertisement of products, services or other matters having no relation to the site upon which they are placed. Signs shall not extend over street or other rights-of-way except as provided for elsewhere in this Chapter.

- (a) Provided further, that off-site public information signs may be permitted by the Planning Commission when said signs are located proximate to a major entry to the City and on privately owned property pursuant to Section XI-30-3.10(m).
- (b) Provided further, that any church, religious assembly or institution may request up to two (2) off-site directional signs to be located by the City within the public right-of-way pursuant to Section XI-30-3.10.1.

XI-30-3.07 Advertising Prohibited on Public Property

Prohibition. No merchandise shall be displayed and no person shall mark, post, paste, paint, print, nail, tack, or otherwise fasten or leave a card, banner, handbill, sign, sticker, poster, or advertisement or notice of any kind or cause the same to be done, on any real or personal property including, but not limited to any street, curb, sidewalk, alley, billboard, fence post, tree, pole, hydrant, bridge, real property or personal property or other structure within the corporate limits of the City of Milpitas, except as may be required by law.

Violation. Any violation of the above named items erected upon public property in violation of the provisions hereof may be removed and destroyed summarily by any City officer or employee. Signs so confiscated may be redeemed within ten (10) days on payment by the owner of costs of removal. The minimum charge for removal of any sign shall be Ten Dollars (\$10.00) per sign. Any sign not claimed within ten (10) days of removal shall become the property of the City.

Exceptions. Provided further, free-standing open house directional signs and garage sale signs may be placed within the public right-of-way pursuant to Sections XI-30-3.10 n and i respectively.

XI-30-3.08 Signs for Zoning Non-Conforming Uses

Signs for non-conforming uses and businesses may be permitted subject to the following:

- (a) All signs shall require the review and approval of the Planning Commission under the provisions of a Conditional Use Permit.
- (b) The total sign area allowed for any non-conforming use or parcel of land shall be calculated as specified in Section XI-30-3.02 of this Chapter but in no event shall the total sign area exceed sixty (60) square feet.
- (c) The maximum height for any freestanding sign shall not exceed ten (10) feet. (Ord. 124.23 (part), 6/15/99)

XI-30-3.09 Non-Conforming Signs

- (a) Notwithstanding any other provision of this Chapter:

- (1) All signs presently existing and not in conformity with the provisions of this Chapter shall conform to the provisions of this Chapter or be removed by December 31, 1984.

(2) Any sign which shall become non-conforming because of an amendment to this Chapter shall be made to conform to the provisions of this Chapter as amended or be removed no later than ten (10) years from the date of said amendment.

(3) Without limitation to any other provision of this Chapter or any other provision of the Milpitas Municipal Code, a non-conforming sign shall not be added to or enlarged unless such sign, including such addition and enlargement, is made to conform to all of the regulations applicable to said sign at the time of said addition or enlargement. Repairs and alterations may be made to a non-conforming sign provided that any structural alteration (other than those required by law) shall not be made unless such sign, including such alteration, is made to conform to all the regulations applicable to said sign at the time of said addition or enlargement. Replacement of the face of a sign shall not be considered to be a structural alteration. No nonconforming sign shall be moved in whole or in part to any other location on the parcel of its location unless said sign is made to conform to all of the regulations applicable to said sign at the time of said moving.

(b) Maintenance of Signs

Nothing herein contained shall be construed to vary the provisions of this Chapter relating to the maintenance of signs in good condition. It is the intent of this Chapter that non-conforming signs shall be maintained in good condition until amortized by the provisions of this section. Signs which are not maintained in good condition (whether conforming or non-conforming) shall be subject to abatement in accordance with the other provisions of this Chapter and this section shall not be construed to be a bar thereto. (Ord. 124.23 (part), 6/15/99)

XI 30.3.10 Signs Subject To Permits. The following signs shall be allowed pursuant to the permits required in the Zoning Districts as indicated in Matrix A and shall be regulated as follows:

(a) Architectural Sign. An Architectural Sign shall constitute an integral part of a roof or marquee and be designed with an intent and purpose to relate to the architectural style of the main building. An Architectural Sign shall not project to within 10-feet of the ground.

(b) Area Identification Sign. An Area Identification Sign shall be erected subject to the following conditions:

(1) The sign surface area shall not exceed twenty-five (25) square feet in Residential areas and sixty (60) square feet in Commercial and Industrial areas.

(2) The materials utilized for sign construction and sign support shall be relatively maintenance free.

(c) Balloon Sign. A Balloon Sign shall be less than 15 inches in diameter at its widest point, shall be securely tethered to the ground or roof and shall not constitute a hazard.

(d) Banner Sign. A Banner Sign shall not be larger than 30 inches by 24 feet in size, securely attached to a building or pole and shall be located on the premises of the business it advertises.

(e) Church/Religious Assembly Sign. A Church/Religious Assembly Sign. A Church or Religious Assembly shall be allowed a total sign area not to exceed one hundred (100) square feet per parcel. The maximum square footage for any individual sign, either a wall sign or freestanding sign, shall not exceed a total of fifty (50) square feet. The height of any freestanding sign shall be regulated by Sections XI-30-3.10(h).

(f) City Identification Sign. Permanent City identification signs erected on private property do not count toward the maximum sign area limits, nor the maximum number of freestanding signs allowed on a site.

- (g) Coming soon Sign. Coming Soon Signs:
- (1) Shall have a maximum height of eight (8) feet.
 - (2) Shall have a maximum area of thirty-two (32) square feet.
 - (3) May denote the opening date, architect, engineer, contractor, future business or lending agency
 - (4) Shall only be placed on the site of work under construction.
 - (5) Shall have a maximum of two (2) Coming Soon Signs permitted per construction site.
 - (6) May only be placed after issuance of a building permit for the main structure and must be removed upon final occupancy of the main structure.
- (h) Freestanding Signs. Freestanding signs shall be erected subject to the following:
- (1) Landscaped planter. Freestanding signs shall be erected in on-site landscaped planter areas.
 - (2) Number of freestanding signs on a parcel. There may be one (1) freestanding sign for each individual parcel's public street frontage. If the frontage exceeds three hundred (300) feet one (1) additional sign shall be allowed. The height of freestanding signs shall be determined from Section XI-30-3.10.h.7 and 8.
 - (3) Number of freestanding signs in a shopping center. In the case of a shopping center, the number of freestanding signs shall be determined as specified above, and any business within the shopping center may be advertised on any freestanding sign allocated to that shopping center as provided in the Section above.
 - (4) Square footage deducted from total. Any square footage of sign placed on a freestanding sign shall be deducted from the total amount of allowable sign area specified in Section XI-30-3.02 above.
 - (5) Approval of freestanding signs up to six (6) feet in height. Freestanding signs up to six (6) feet in height shall be approved as provided in Section XI-30-3.01 above.
 - (6) Approval of freestanding signs over six (6) feet in height. Freestanding signs over six (6) feet in height, including their location and architectural design (not structural) of the supporting sign structure shall be reviewed after notice and hearing by the Planning Commission under the provisions of a Conditional Use Permit. The Commission shall be empowered to approve, conditionally approve or disapprove any Use Permit for a freestanding sign. The following factors shall be considered by the Planning Commission in making its decision:
 - (a) Height and size of sign.
 - (b) Structure of sign.
 - (c) Illumination of sign.
 - (d) Proximity to residential districts.
 - (e) Relationship of height and size of sign to that of parcel.
 - (f) Density of other signs in vicinity.
 - (g) Impact of other signs in vicinity.
 - (h) And such other factors that the Planning Commission shall determine as relating to the impact of the sign to the environment.
 - (7) Freestanding Sign Height in Non-Residential Zones. One (1) foot of height to a maximum of twenty-five (25) feet for each eight (8) feet of public street frontage. If a public street frontage exceeds three hundred (300) feet, then the height of the second freestanding sign shall be

determined as described above, using only the public street frontage in excess of three hundred (300) feet. Any freestanding sign proposed under Section XI-30-3.10.(h).6 above may be reduced in height from the maximum twenty-five (25) foot height limit as part of the approval process specified in Section XI-30-3. 3.10.(h).6 Refer to Section XI-30-4 of this Chapter for additional information.

(8) Freestanding Sign Height in Residential Zones as a Conditional Use. One (1) foot of height to a maximum of twenty-five (25) feet for each twenty-five (25) feet of public street frontage, except those freestanding signs on any parcel of land located in the designated Hillside which shall, in no case, exceed a height of four (4) feet measured from a warped plane parallel to the natural grade. Refer to Section XI-30-4.05 of this Chapter for additional requirements regarding Hillside signage.

(9) Computing street frontage. Public street frontage with non-access rights or no immediate direct access such as flood control channels, but excluding landscaped planter areas, shall not be included in computing public street frontage, for purposes of determining number of freestanding signs or sign height.

(10) Height. All freestanding sign heights shall be measured from grade level of the closest public sidewalk, curb or public street.

(i) Garage Sale Sign. Garage Sale Signs:

(1) Shall be no larger than six (6) square feet in sign area per side.

(2) Shall be free-standing

(3) May be placed within the public right-of-way between the face-of-curb and property line a distance of no closer than three (3) feet from the face-of-curb and shall not be placed within the vehicular or pedestrian traveled portion of the public right-of-way.

(4) Shall only be allowed on Saturdays, Sundays and holidays.

(j) Grand Opening Sign. Grand-Opening Signs:

(1) Are permitted when used for bona-fide grand-opening functions.

(2) Are effective only between fifteen (15) calendar days prior to and forty-five (45) calendar days after a business' initial occupancy, new ownership, name change or the reopening of a business that completely closed for remodeling for at least two (2) weeks.

(3) May be displayed for a period not in excess of forty-five (45) consecutive calendar days.

(4) Shall only be displayed on the business for which the grand opening will occur.

(k) Graphic Panel Sign. Graphic Panel Signs:

(1) Shall be located within five (5) feet of the main building wall.

(2) Relate to the architecture of the building and depend primarily on a graphic image for delivering their advertising message.

Note: Graphic panels do not count as freestanding signs. The display area on graphic panels counts towards overall sign area.

(l) Off-Site Directional Church/Religious Assembly/Institutional Sign

(1) Any church, religious assembly or institution may request up to two (2) Off-Site Directional Church/Religious Assembly/Institutional Signs to be located by the City within the public right-of-way.

(2) These signs shall only include the name of the church, religious assembly or institution in letters not exceeding four (4) inches in height and an arrow specifying the appropriate direction.

- (3) Requests for such signs shall be made in writing by an authorized representative of the church, religious assembly or institution and shall include the general location desired for said signs.
 - (4) The City Manager, or his or her designee, shall determine the precise location and sign design based on good traffic engineering practice, and shall provide for erection of the signs.
 - (5) An Administrative Permit will be required for such signs.
- (m) Off-Site Public Information Signs:
- (1) May be permitted by the Planning Commission pursuant to a Conditional Use Permit when said signs are located proximate to a major entry to the City and on privately owned property.
 - (2) Shall be of a size, and shall be located, as determined by the Conditional Use Permit.
- (n) Open House Directional Signs:
- (1) Shall be no larger than six (6) square feet in sign area per side.
 - (2) Shall be free-standing
 - (3) May be placed within the public right-of-way between the face-of-curb and property line a distance of no closer than three (3) feet from the face-of-curb.
 - (4) Shall not be placed within the vehicular or pedestrian traveled portion of the public right-of-way.
 - (5) Said signs shall only be allowed on Saturdays, Sundays and holidays.
- (o) Political Signs
- (1) Intent. Political signs are a necessary part of our political life before an election. After the election is over, political signs become litter, create a health and safety problem and encourage blight. It is the purpose of these regulations to provide for their prompt removal after election.
 - (2) Regulations. Except as otherwise authorized in this Section, political signs and persons posting political signs shall meet the following requirements:
 - (a) Scope of Regulations: Nothing contained in this Chapter shall be construed to regulate the content of any political sign.
 - (b) Exemption for Political Signs: Political signs shall not be included in the maximum sign area permitted for any site or use.
 - (c) Notification Procedures: Any person or group erecting political signs as defined in Section XI-30-2.34 of the Sign Ordinance, shall provide the Milpitas City Clerk a notice in writing, either by registered mail or in person, including the name, address and telephone number of the person or group responsible for erecting or removing the political sign. The notice shall be provided prior to erecting any political signs.
 - (d) Removal: The responsibility for removal shall be that of the person or group identified in the notice given pursuant to Section XI-30-3.10.(o).2.c of this Chapter. All political signs shall be removed within fifteen (15) days following the election or elections to which the political sign pertains. Any political sign that is not removed within this time period is declared a public nuisance. No notice need be given by the City to that person or group to remove said sign. If the responsible person or group fails to remove any political sign, the owner of the land shall be responsible for its removal provided the owner shall be given fifteen (15) days' prior notice in writing by the City to remove said sign. Notice hereunder shall be given personally or by certified mail addressed to the owner of the land as shown on the last equalized assessment roll of the County of Santa Clara. In the exercise of the remedies provided by law or by this Chapter, City shall not be required to proceed against the property owner before proceeding against the person or group nor shall it be required to proceed against the person or group as a condition to proceeding against the landowner.

(e) Allowable Locations: Political signs shall be permitted in any zoning district on private property without permit provided that they shall conform to all the provisions of this Chapter.

(i) In residential zoning districts, no such sign shall project above the height or from the sides of the dwelling or block access to or from any door or window and every such sign shall be placed in a manner to secure it from being blown or falling down.

(ii) No political sign shall be erected on trees, fence posts, or public utility poles or located within any public right-of-way. No political sign erected on private property shall be placed within the traffic safety visibility area at the intersection of any street.

(iii) No political sign shall be erected in such a manner that will, or reasonably may be expected to, interfere with, obstruct, confuse or mislead traffic. No political sign shall be erected in a manner that will interfere with pedestrians so as to constitute a hazardous condition. No political sign shall be erected which has less horizontal or vertical clearance from any public utility lines than is prescribed by the State of California, or rules and regulations duly promulgated by agencies thereof.

(f) Allowable Size and Height: The following limitations and requirements shall apply:

(i) The maximum size of political signs shall be no more than thirty-two (32) square feet in all zoning districts.

(ii) The maximum height of any political sign placed in all zoning districts shall be six (6) feet, measured from the ground level to the top of the sign.

(3) Remedies. Without limitation to the remedies authorized by law or by this Chapter for the enforcement of this Chapter, City may exercise one or more of the following remedies which shall be cumulative to all other remedies:

(a) Enter on vacant property and abate the nuisance.

(b) Enter on occupied property with the consent of the owner and occupant thereof and abate the nuisance.

(c) After sending each candidate or landowner a 15 day prior notice, the City may remove any sign in violation of this Section and shall charge a fee of \$25.00 per sign for the reasonable cost of abatement. The \$25.00 fee shall also be assessed against the candidate for all signs removed by City staff which are installed or posted contrary to the provisions set forth in Section XI-30-3.10.(o).2.e. The City shall demand payment for the cost of abatement from the candidate or the owner of land or both and institute legal proceedings for the collection thereof.

(d) Abate the nuisance and impose a charge therefor on the land pursuant to the provisions of Chapter 2, Title II of the Milpitas Municipal Code.

(e) Institute a civil action for abatement of the nuisance.

(f) Institute a criminal proceeding against candidate or landowner, or both, for violation of the provisions of this Chapter.

(g) Abated Sign Materials: Materials from signs abated under this Chapter shall be disposed of as rubbish by the official abating said signs.

(p) Projecting Sign

(1) Clearance Of Projecting Signs. Projecting Signs shall have a clearance of eight (8) feet above the ground and fourteen (14) feet above a driveway, alley, or other vehicular access way.

(2) Location Of Projecting Signs. Projecting Signs shall only be located on the middle one-third of the front wall of a building. This requirement may be modified by means of an "S" Zone Amendment.

- (3) Number of Projecting Signs. Only one Projecting Sign shall be permitted for each business located on the site.
- (4) Projecting Sign Areas. A Projecting Sign shall have a maximum size of sixteen (16) square feet per side unless increased pursuant to an "S" Zone Amendment.
- (5) Projecting Sign Projection Limit. Projecting Signs shall not extend from the front wall to which they are attached more than eight (8) feet unless modified by an "S" Zone Amendment.
- (6) Projecting into a public right-of-way. No such sign shall project into a public right-of-way.
- (q) Public Information Sign
 - (1) A Public Information Sign shall be located at a prominent entry to the City of Milpitas or a significant location in the City where it will be visible to large numbers of citizens.
 - (2) The location, design and size of the sign will be determined by the "S" Zone Amendment.
- (r) Scoreboard Sign
 - (1) Scoreboard Signs may be located on scoreboard structures located in an adult or youth outdoor ballfield on public property.
 - (2) The Planning Commission may after notice and hearing, permit advertising signs to be located on the scoreboard subject to a conditional use permit.
 - (3) Advertising on any scoreboard sign shall not exceed 30% of the total scoreboard area and shall be for products or businesses available to persons of all ages.
- (s) Shopping Center Identification Sign (see Section XI-30-4.02, Regional Shopping Centers).
- (t) Temporary Promotional Sign
 - (1) Temporary Promotional Signs permitted pursuant to an Administrative Permit may be placed on a business for a maximum of fourteen (14) consecutive calendar days per permit when used for special promotional events.
 - (2) Administrative Permits may be issued for periods of less than fourteen (14) days.
 - (3) A Temporary Promotional Sign will be permitted a maximum of four times per calendar year per business.
- (u) Temporary Tract Advertising Sign
 - (1) Types. The City of Milpitas authorized only the following two types of Temporary Tract Advertising Signs:
 - (a) "Major Signs."
 - (b) "Directional Signs."
 - (2) Number of Signs Allowed. The total amount of "major signs" is limited to six (6) per tract; provided, however, that the Planning Commission in its discretion may grant additional signs upon the following conditions:
 - (a) Said grant will not be contrary to or materially detrimental to public interest and welfare.
 - (3) Restrictions. Each of the six (6) "major signs" shall:
 - (a) Not exceed twelve (12) feet in height including appendages.
 - (b) Not exceed thirty-two (32) square feet of surface area including all borders.
 - (c) Not to be closer than one hundred fifty (150) feet from any residential building.

- (d) Not to be closer than one hundred (100) feet from any existing and authorized sign or billboard.
- (e) Be set back at least fifteen (15) feet from any property boundary line on which it is to be located.
- (f) Not be permitted within six hundred (600) feet of a Santa Clara County Expressway.
- (4) Additional Directional Signs. Additional directional signs of a size as indicated below, under Section XI-30-3.10.(u).4.a of this Chapter may be allowed, as needed, in the discretion of the Planning Commission:
 - (a) Directional signs shall not exceed sixteen (16) square feet of surface area. Said directional signs shall not exceed five (5) feet in height nor eight (8) feet in length.
 - (5) Removal of Temporary Tract Signs. No sign permit for a temporary tract sign shall be issued unless and until the applicant therefore has signed an agreement that upon cessation of the use under the permit, the sign involved will promptly be removed within fifteen (15) days after the expiration of the permit. Said agreement shall be accompanied by a refundable cash deposit of fifty (\$50) dollars per sign, which deposit may be used to defray the costs of the sign removal in the event the permit holder defaults upon the agreement, as aforesaid. If necessary, the City's agents may, after five (5) days' written notice to the original applicant and to the property owner of record, enter private property to remove such signs which shall then become the property of the City.
- (v) Wall Signs
 - (1) The area of Wall Signs shall be determined by Section XI-30-3.02, Maximum Permissible Sign Area.
 - (2) The exposed face of a Wall sign shall be installed in a plane parallel to the plane of the wall.
- (w) Window Signs
 - (1) Window Signs shall be attached directly to or within twelve (12) inches of the inside of commercial establishment's windows.
 - (2) Window Signs shall not exceed twenty-five percent (25%) of the contiguous window area.

Section 4 Special Regulations

The following regulations pertain to signage requirements in special districts, and take precedence over other regulations in this Chapter, unless otherwise specified. (Ord. 124-23 (part), 6/15/99)

XI-30-4.01 Shopping Centers

The Planning Commission may permit the following, subject to approval of a Conditional Use Permit: one (1) double faced freestanding sign for the purpose of identifying the center, including its principal tenants. Said sign shall have an area not exceeding three hundred (300) square feet on any one (1) face and a maximum height limit of forty-five (45) feet. Said sign shall be in addition to those signs allowed under the provisions of Section XI-3-3.10.(h) of this Chapter. Furthermore, the sign area on the identification sign shall be in addition to the total sign area allowed under the provisions of Section XI-3-3.02. Refer to Section XI-3-4.02 of this Chapter for additional information relating to regional shopping centers. (Ord. 124.23 (part), 6/15/99)

XI-30-4.02 Regional Shopping Centers

(a) For regional shopping centers, the Planning Commission may permit the following, subject to the issuance of a Conditional Use Permit or "S" Zone approval, with notice and hearing, per Section XI-10-57 or XI-10-42 of the Milpitas Municipal Code:

- (1) An increase to the maximum site sign area not more than twenty-five percent (25%) greater than that otherwise allowed in this Chapter.

(2) An increase to the maximum shopping center identification sign area no more than fifty percent (50%) greater than that otherwise allowed in this Chapter, allowing up to four hundred fifty (450) square feet of sign area on such sign.

(3) An increase to the maximum height of shopping center identification sign not more than fifteen (15) feet taller than otherwise allowed in this Chapter, allowing up to a sixty (60) foot height.

(4) On-site directional sign(s). Any request for on-site directional signs within the regional shopping center shall be made in writing to the Planning Division by any authorized representative of the regional shopping center. The request shall indicate the proposed number, locations and design of the proposed on-site directional signs.

(5) One (1) off-site directional sign, for the purpose of identifying a regional shopping center. Any request for an off-site directional sign shall be made in writing to the Planning Division by any authorized representative of the regional shopping center. The request shall indicate the proposed location and design of the proposed directional sign.

Prior to the installation of any off-site directional sign within the public right-of-way, the sign applicant must obtain an encroachment permit from the Public Works Department. Prior to the issuance of the conditional use permit, the Public Works Director or his or her designee, shall recommend any necessary modifications of the proposed location and sign design to assure traffic safety is maintained.

(b) For regional shopping centers encompassing at least one (1) million square feet of building area, the following apply: Where private streets delineate separate parcels within the shopping center, a parcel's private street frontage may be used instead of its public street frontage (or applicable building perimeter formula), for purposes of calculating sign area, but not for purposes of determining number of on-site freestanding signs, unless a parcel has no public street frontage.

The Planning Commission may permit the following, subject to the issuance of a Conditional Use Permit or "S" Zone approval, with notice and hearing, per Section XI-10-57 or XI-10-42 of the Milpitas Municipal Code.

(1) Two (2) off-site directional signs for the purpose of identifying a regional shopping center. Refer to Section 4.02(a)5 above for additional requirements.

(2) Graphic panel(s) (freestanding).

(3) For major tenants (those with a minimum 40,000 square feet of leasable floor area), signs that move or have the illusion of movement with the approval of a Conditional Use Permit as provided for in XI-10-57.01 and XI-30-4.02(d).

(c) In considering the approval of a Conditional Use Permit or "S" Zone application, no other deviations to the Sign Ordinance shall be permitted which are inconsistent with the provisions of this Chapter.

(d) In considering the approval of a Conditional Use Permit or "S" Zone application, under Subsections 4.02(a) and (b) above, the Planning Commission shall consider the following criteria in addition to the regulations specified in Section XI-10-57 and XI-10-42:

(1) Relationship of the location and height of the signage to the height of the building;

(2) Density of other signs in the vicinity of the subject sign on or off of the subject parcel;

(3) Illumination of the sign as it relates to other signs on the building or off-site;

(4) Impact of other signs in the vicinity on the subject sign;

(5) The relationship of the sign to the space on the building or land where the sign is to be located;

(6) Compatibility of materials, architecture design, and continuity with other signs on the building or land; and

(7) Such other factors as the Commission determines are relevant with respect to the impact of the sign on the general environment. If the sign is proposed to move or have the illusion of movement, the public benefit gained by having a moving sign. (Ord. 124.25 (part), 4/4/00; Ord. 124.23 (part), 6/15/99)

XI-30-4.03 Town Center District

One freestanding sign shall be allowed within each sub-area of the "Town Center District", with the exception of the main Town Center shopping area which shall be allowed three (3) freestanding signs. No signs shall exceed a height of forty-five (45) feet. The sub-areas shall be identified as follows:

(1) Beresford Square

(2) Shapell Office Building

(3) Main Town Center shopping area, east of Milpitas Boulevard to Hillview Drive

- (4) Hotel and offices east of Berryessa Creek.

Refer to Section XI-30-4.02 of this Chapter for additional information relating to regional shopping centers.
(Ord. 124.26 (5/4/04), 124.23 (part), 6/15/99)

XI-30-4.04 Sign Program / "S" Zone approval

- (a) Signage for a new retail, office or industrial complex on four (4) or more acres having a gross floor area of 40,000 square feet or larger, a multi-tenant building, a new automobile dealership, or any buildings more than two (2) stories high shall be subject to a Sign Program/"S" Zone approval to be reviewed by the Planning Commission pursuant to Section XI-10-42 "S" Combining District (Site and Architectural Review or "S" Zone).
- (b) An existing or proposed retail, office or industrial complex (all of the businesses in the complex or shopping center, not an individual business in a complex or shopping center), multi-tenant building, automobile dealership or building more than two (2) stories high, regardless of the size of the site on which it is located, may apply for a Sign Program/"S" Zone approval to be reviewed by the Planning Commission.
- (c) A Sign Program may deviate from the standards of the Sign Regulations if the Planning Commission makes the following findings:
1. That the program's contribution to effective and attractive identification of businesses, services and uses and the design quality of the site and surrounding area will be superior to the quality that would result under the regulations and standards of the Sign Regulations; and
 2. That all of the proposed signs of the retail, office or industrial complex, multi-tenant building, shopping center, automobile dealership or building are well related to each other, and compatible with the style or character of existing improvements on the site and adjacent sites;
 3. That all of the proposed signage shall generally conform with the Design Guidelines in Section XI-30-3.04;
 4. No signs in the Sign Program are Prohibited Signs as regulated in Section 6; and
 5. That the requirements of Section XI-10-42.03 are met.

XI-30-4.05 Hillside Combining District

Signs in the Hillside combining district shall conform to the following:

- (a) Permanent signs erected for the purpose of announcements or nameplates shall not exceed one (1) square foot.
- (b) Maximum sign area for conditional uses shall be limited to one (1) square foot of sign area for each three (3) lineal feet of public street frontage, but shall, in no case, exceed twenty-four (24) square feet. See exception in Section XI-30-3.10(e) of this Chapter relating to sign area for churches.
- (c) Freestanding signs on any parcel of land located in the designated Hillside shall, in no case, exceed a height of four (4) feet measured from a warped plane parallel to the natural grade.
- (d) Any sign over one (1) square foot in area located in the designated Hillside shall be constructed of either wood or masonry materials. Incised lettering or individual letters, numbers, symbols, etc., of a metallic material mounted on said wood or masonry structure is permitted. Furthermore, all such lettering may only be illuminated by external or indirect means. (Ord. 124.23 (part), 6/15/99)

Section 5 Exempt Signs

XI-30-5.01 Exempt Signs

The following signs are exempt from the provisions of this ordinance:

- (a) Traffic or other municipal signs, legal notices, railroad crossings signs, danger and emergency signs.
- (b) Repainting or cleaning (or changing of the advertising copy thereon) of an advertising structure shall not be considered an erection or alteration which requires a sign permit unless a structural change is made.
- (c) Memorial sign or tablets, erected by recognized historical agencies, or names of buildings and date of erection when cut into masonry surface or when constructed of bronze or other incombustible letters and affixed flat against the wall of such building.
- (d) Signs regulating on-premises traffic and parking when less than twelve (12) square feet in area.
- (e) Window signs.

- (f) Signs used by public utilities for the safety, welfare or convenience of the public shall be exempt from the provisions of this ordinance.
- (g) Poles, structures or other housings intended for the purpose of flying or otherwise displaying of the United States flag, California State flag, City or County flag or flag of any similar public agency are exempt from the approval provisions of Sections XI-30-3.01, XI-30-3.10(h)5 and XI-30-3.10(h)6. The flags specified herein are exempt from all other permit requirements.
- (h) House numbers, name plate or identification of house members (provided sign does not exceed two (2) square feet maximum area), mail box identification, street names, "no-trespass" signs, and other warning signs.
- (i) Signs for the California State Lottery approved by the Lottery Commission for display by Lottery Game Retailers.
- (j) Murals or other artistic paintings on walls, provided *no logos, emblems* or other similar devices, sign copy or illustrations of activities associated with uses on the premises or in the vicinity are included in the mural or painting.
- (k) On-Site Temporary For Sale Or Lease Signs, which shall:
 1. Not exceed a maximum area of sixteen (16) square feet per side.
 2. Be limited to one (1) such sign placed for each one hundred (100) feet of street frontage, up to a maximum of two (2) signs per parcel.
 3. Have a maximum height of eight (8) feet.
 5. State that the property is for sale, lease or exchange by the owner or his or her agent and the name, address and phone number of the owner or agent and/or agency and directions;
 6. Be painted a light color;
 5. Be constructed of wood, plywood, metal or other rigid material; and
 7. Not be placed on a private or public right-of-way.
 8. If advertising a tenant space, the sign shall be located on the tenant space
- (l) Information Sign. An Information Sign:
 1. Shall provide courtesy information or direction to the public without advertising the business products or services such as hours, entrance, exit, self-serve, credit cards, restrooms, telephone drive-up;
 2. Or shall serve to direct motorist and pedestrians on private property;
 3. Shall not be larger than Twelve (12) square feet in size; and.
 4. Shall not be a traffic hazard.
- (m) Other signs similar to the above as provided for in Section XI-30-12.02 of this Chapter. (Ord. 124.23 (part), 6/15/99)

Section 6 Prohibited Signs

XI-30-6.01 Prohibited Signs

The following signs, or signs which contain the following elements, are Prohibited Signs:

- (a) A-Frame Signs. Any A-Frame Sign with the exception of public service signs and open house directional signs.
- (b) Blinking, Flashing Lights. Any sign having blinking, flashing or fluttering lights, or any other illuminating device which has a changing light intensity, brightness or color.
- (c) Off-Site Signs. Off-site signs as regulated by Section XI-30-3.06 except for Temporary Tract Advertising Signs, Regional Shopping Centers signage as regulated in Section XI-30-4.02, Open-House Directional Signs, outdoor advertising structures as permitted by Chapter 14 of the Milpitas Municipal Code and Off-Site Directional Signs for churches, religious assembly or institutions.
- (d) On Public Property. Any sign located on public property as regulated by Section XI-30-3.07.
- (e) Other Advertising Structure.
- (f) Outdoor Advertising Structures unless permitted pursuant to Chapter 14 of the Municipal Code.
- (g) Portable Signs. Any Portable Sign with the exception of public service signs and open house directional signs.
- (h) Privately owned signs Resembling Traffic Signs. Any privately owned sign resembling any public directional sign or traffic control device.
- (i) Reflective Signs. Signs using colors that contain reflective properties.

- (j) Rotating or Moving Signs. Any sign which revolves, rotates, moves in any manner or creates the illusion of movement, rotation or revolvment, or has any visible moving, revolving or rotating surfaces or parts, is held and/or moved by a human being or animal.
- (k) Roof Sign or Signs Extending Above Roof Ridge. Any Roof Sign or sign, which is placed on, above or attached to any building roof (above the gutter line); above or on top of any marquee; or on, above, made a part of or attached to any parapet.
- (l) Signs That Are A Traffic Hazard. Any sign, which create a traffic hazard to operators of motor vehicles or any sign, which obstructs or interferes with a motorist's vision of traffic signals.
- (m) Sound Or Odor Emitting Signs. Any sign designed for emitting sound, odor or visible matter.
- (n) Statuary Signs. Statuary when used for advertising purposes.
- (o) Temporary Signs. Temporary signs except as approved in conjunction with approved signage for Coming Soon, Garage Sale, Grand-Opening, Open House Directional, Outdoor Advertising Structures as permitted by Chapter 14 of the Milpitas Municipal Code, Temporary Promotional and Temporary Tract Advertising Signs.
- (p) Vehicle-Mounted Signs

Section 7 Sign approvals by type of permit and by zoning district

SIGN APPROVALS BY TYPE OF PERMIT AND BY ZONING DISTRICT MATRIX

Sign Type	A	R1, R2, R3, R4 AR	CO	C1	C2	HS	TC	M1, M2, MP	MXD	HILLSIDE (By City Council)
Architectural	X	X	S	S	S	S	S	S	S	X
Area Identification	AP	AP	AP	AP	AP	AP	CUP	AP	AP	S or CUP
City Identification	X	AP	AP	AP	AP	AP	X	AP	AP	X
Church/Religious Assy.	X	CUP	CUP	CUP	CUP	X	X	CUP	CUP	X
Coming Soon	AP	AP	AP	AP	AP	AP	AP	AP	AP	X
Freestanding ≤6 feet	PCS	CUP	PCS	PCS	PCS	PCS	PCS	PCS	PCS	S or CUP
Freestanding > 6 feet	X	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	X
Garage Sale (on private property only)	P	P	X	X	X	X	X	X	P	P
Grand Opening	X	X	AP	AP	AP	AP	AP	AP	AP	X
Graphic Panel	PCS	CUP	PCS	PCS	PCS	PCS	PCS	PCS	PCS	X
Information	AP	AP	AP	AP	AP	AP	AP	AP	AP	X
Off-Site Directional Church, Religious Assembly, Institutional Sign	AP	AP	AP	AP	AP	AP	AP	AP	AP	X
Off Site Public Info.	X	CUP	CUP	CUP	CUP	CUP	X	CUP	X	X
Open House Directional	X	P	P	X	X	X	X	X	X	X
Political (Sec. 30-4.07)	AP	AP	AP	AP	AP	AP	AP	AP	AP	X
Projecting	X	X	AP	AP	AP	AP	AP	AP	AP	X
Public Information	S	S	S	S	S	S	S	S	S	X
Scoreboard Sign	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	X
Shopping Center Identification	X	X	X	S	S	S	S	S	S	X
Temporary Promotional	X	X	AP	AP	AP	AP	AP	AP	AP	X
Temporary Tract Advertising	CUP	X	X	CUP	CUP	X	X	CUP	CUP	X
Wall	X	CUP	AP	AP	AP	AP	AP	AP	AP	S or CUP
Window	X	X	P	P	P	P	P	P	P	X

Notes for Matrix: AP Administrative Permit by Staff (over the counter)

P Permitted without City review

CUP Conditional Use Permit Approval Required by Planning Commission (except Hillside)

S "S" Zone Amendment by the Planning Commission (except Hillside)

PCS Planning Commission Subcommittee

X Not Permitted

Section 8 Variance

XI-30-8.01 Variance

When practical difficulties, unnecessary hardships or results inconsistent with the purpose and intent of this Chapter result from the strict application of the provisions hereof, variances may be granted as provided in this Article by application to the Planning Commission. (Ord. 124.23 (part), 6/15/99)

XI-30-8.02 Criteria for Variance

The Planning Commission may grant a variance if the following criteria are found applicable:

(a) Special conditions and extraordinary circumstances applicable to the property involved or its intended uses, which were not created by the owner or his tenant, and which do not apply generally to other properties with the same land use.

(b) Literal enforcement of the provisions of this Chapter will result in unnecessary hardship inconsistent with the spirit and intent of this Chapter.

(c) The variance of the sign use corresponds with the land use and will not be contrary to, nor materially detrimental to public interest and welfare, or injurious to conforming signs in the City.

(d) The variance to be granted is one that will require the least modification of the prescribed regulation, and the minimum variance that will accomplish that purpose. (Ord. 124.23 (part), 6/15/99)

XI-30-8.03 Variance Procedure and Fee

(a) A completed sign variance application form must be filed with the Planning Division along with the required fee as adopted by resolution of the Milpitas City Council. Pursuant to City Council Ordinance No. 124.8, no fee shall be required of the Milpitas Unified School District. The Commission shall hold a public hearing on each sign variance application.

(b) The Commission shall make its determination in writing within forty (40) days from the date of filing an application and shall transmit a copy thereof to the applicant.

(c) In approving a variance, the Commission shall have the authority to impose such conditions as it deems necessary to protect the best interests of the surrounding property or neighborhood and the Comprehensive General Plan. (Ord. 124.23 (part), 6/15/99)

Section 9 Enforcement

XI-30-9.01 Declaration of Nuisance

(a) Any sign or structure erected, constructed, maintained, marked, posted, pasted, painted, printed, altered or repaired in violation of the provisions of the Chapter or after a permit or variance therefor has been revoked or expired is hereby found and declared to be a public nuisance and may be abated in accordance with the provisions of the Standard Procedures Chapter of the Milpitas Municipal Code.

(b) Without limitation to the generality of the foregoing, any sign or structure erected, constructed, maintained, marked, posted, pasted, painted, altered or repaired:

(1) So as to be unsafe and so as to constitute an immediate peril to persons or property; or

(2) Upon public property without written permission of the Community Development Manager or City Manager of the City of Milpitas; is hereby found and declared to be a public nuisance and may be summarily abated in accordance with the provisions of the Standard Procedures Chapter of the Milpitas Municipal Code. (Ord. 124.23 (part), 6/15/99)

XI-30-9.02 Revocation of Permit or Variance

After written notice by mail to the permittee or grantee of a variance and hearing before the Planning Commission in accordance with the provisions of the Standard Procedure Chapter of the Milpitas Municipal Code, any permit or variance may be revoked if:

(a) Said permit or variance was issued in violation of law.

(b) The conditions or limitations so said permit or variance have not been complied with.

It shall be unlawful for any person to erect, construct, maintain, mark, post, paste, paint, print, alter or repair any sign or structure for which the permit or variance has been revoked. (Ord. 124.23 (part), 6/15/99)

XI-30-9.03 Expiration of Permit or Variance

- (a) Any permit or variance granted herein shall expire by the terms thereof.
- (b) Any permit or variance granted herein shall expire if the same is not used within six (6) months from the date that the same is issued.
- (c) It shall be unlawful for any person to erect, construct, maintain, mark, post, paste, print, alter or repair any sign or structure for which the permit has expired. (Ord. 124.23 (part), 6/15/99)

Section 10 Appeals

*Note to Section 10

All appeals shall be made in accordance with Article V of Chapter 20, Title 1 of the Milpitas Municipal Code. (Ord. 124.23 (part), 6/15/99)

Section 11 Penalty Provisions

XI-30-11.01 Penalties

Any person, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this Chapter shall be guilty of an infraction. Such person shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this Chapter is committed, continued or permitted by such person, and shall be punishable as herein provided.

- (a) Any sign erected without benefit of Planning Commission review and approval as provided herein shall be subject to a double Planning Commission application fee. (Ord. 124.23 (part), 6/15/99)

XI-30-11.02 Remedies, Cumulative

The remedies herein contained shall be cumulative and in addition to such other remedies as provided by law. Resort to one remedy shall not preclude resort to any other remedy as may be allowed by law. (Ord. 124.23 (part), 6/15/99)

Section 12 Interpretations

XI-30-12.01

Nothing herein shall limit the Planning Commission from making reasonable interpretations of this Chapter for these foregoing regulations for uses or circumstances not specifically defined herein. Said interpretations shall be made in the form of a written decision based upon the regulations herein and the general public welfare. (Ord. 124.23 (part), 6/15/99)

XI-30-12.02 Other Signs Permitted by Commission

Where the term "other signs similar to the above" is mentioned, it shall be deemed to mean other signs which, in the judgment of the Commission as evidenced by a written decision, are similar to the signs listed in the same section and are not more objectionable to the general welfare. "Other signs" so determined by the Commission shall be regarded as listed signs. In no instance, however, shall these regulations be so interpreted to permit a sign when such sign is specifically listed and regulated herein. (Ord. 124.23 (part), 6/15/99)

Section 3: A new Section 1.04-1 is added to Title V, Chapter 500 to read as follows:

V-500-1.04-1 Continuing Violation

A violation, infringement or breach of a provision of this chapter that is uninterrupted and lasts for a continuous period in excess of 24 hours.

Section 4: A new Section 1.05-1 is added to Title V, Chapter 500 to read as follows:

V-500-1.05-1 Individual Violation

A non-continuous condition or occurrence in violation, infringement or breach of a provision of this chapter that does not exceed 24 hours in duration. An Individual Violation may be recurrent. Examples of "Individual Violations" for the purposes of this Chapter include, but are not limited to, the illegal outdoor storage of materials, entertainment events, prohibited signs, or outdoor seating in violation of a use permit.

Section 5: Section 115 of Title V, Chapter 500 of the Milpitas Municipal Code is hereby amended to read as follows:

V-500-1.15 Unreasonable Period of Time

"Unreasonable period of time" shall mean not less than fifteen (15) calendar days following notification by the City to the owner/occupant pursuant to Section V-500-3.01 that the property is in violation of this Chapter. The City Manager, upon a finding that the violation in question constitutes a threat to the health and safety of any person may designate a time period of fifteen (15) calendar days or less upon notice to the owner/occupant to abate the nuisance. Prior notice shall not be required for summary abatement pursuant to Section V-500-3.08.

Section 6: A new Section 8.01-1 is added to Title V, Chapter 500, to read as follows:

V-500-8.01-1 Authority To Issue An Administrative Citation

Where an enforcement officer charged with the enforcement of any provision of this Chapter determines that a violation of that provision has occurred, and that the violation is a continuing violation that does not create an immediate danger to public health and safety, the citation shall set forth a reasonable period of time, which shall not be less than 15 days, for the person responsible for the continuing violation to correct or otherwise remedy the violation prior to the imposition of the administrative fine. Where the violation is a continuing violation that creates an immediate danger to public health and safety, the violation shall be deemed a public nuisance subject to the summary abatement provisions of Section V-500-3.08. Where the violation is associated with an event that is not a continuing violation, the person responsible for the violation shall not have an opportunity to correct or otherwise remedy the violation, and the administrative fine shall be imposed. Every recurrence of an event in violation of this chapter shall be considered a separate occurrence and shall be subject to the fine schedule as set forth in the schedule of fines established by resolution of the City Council.

Section 7: Section 63.07 of Title XI, Chapter 10 of the Milpitas Municipal Code is hereby amended to read as follows:

XI-10-63.07 Administrative Citations

When he or she determines that one or more violations of this Chapter have occurred, the City Manager and his/her designee may issue administrative citations pursuant to the procedures set forth in Sections V-500-8.00 through V-500-8.06. Where the violation is a continuing violation that does not create an immediate danger to public health and safety, the citation shall set forth a reasonable period of time, which shall not be less than 15 days, for the person responsible for the continuing violation to correct or otherwise remedy the violation prior to the imposition of the administrative fine. Where the violation is a continuing violation that creates an immediate danger to public health and safety, the violation shall be deemed a public nuisance subject to the summary abatement provisions of Section V-500-3.08. Where the violation is associated with an event that is not a continuing violation, the person responsible for the violation shall not have an opportunity to correct or otherwise remedy the violation, and the administrative fine shall be imposed. Every recurrence of an event shall be considered a separate occurrence and shall be subject to the fine schedule outlined below.

The schedule of fines for administrative citations issued for violations of this Chapter is as follows:

1. Not to exceed \$100 for the first violation
2. Not to exceed \$200 for the second violation of the same code provision within twelve (12) months; and
3. Not to exceed \$500 for the third and subsequent violation of the same code provision within twelve (12) months.

Each person that fails to pay any fine set out in an administrative citation issued pursuant to this section shall be liable for a late payment charge of 10%.

Section 8: A new section 2.05-1 is added to Title XI, Chapter 30, to read as follows:

XI-30-2.05-1 Continuing Violation

A violation, infringement or breach of a provision of this chapter that is uninterrupted and lasts for a continuous period in excess of 24 hours.

Section 9: A new section 2.09-1 is added to Title XI, Chapter 30, to read as follows:

XI-30-2.09-1 Individual Violation

A non-continuous condition or occurrence in violation, infringement or breach of a provision of this chapter that does not exceed 24 hours in duration. An Individual Violation may be recurrent. Examples of "Individual Violations" for the purposes of this Chapter include, but are not limited to, the illegal outdoor storage of materials, entertainment events, prohibited signs, or outdoor seating in violation of a use permit.

Section 10: A new Section 7.01(a) is added to Title XI, Chapter 30 to read as follows:

XI-30-7.01(a) Administrative Citations

As an alternative or in addition to the declaration of nuisance and summary abatement procedures described in Section 7.01, when he or she determines that one or more violations of this Chapter have occurred, the City Manager and his/her designee may issue administrative citations pursuant to the procedures set forth in Sections V-500-8.00 through V-500-8.06. Where the violation is a continuing violation that does not create an immediate danger to public health and safety, the citation shall set forth a reasonable period of time, which shall not be less than 15 days, for the person responsible for the continuing violation to correct or otherwise remedy the violation prior to the imposition of the administrative fine. Where the violation is a continuing violation that creates an immediate danger to public health and safety, the violation shall be deemed a public nuisance subject to the summary abatement provisions of Section V-500-3.08. Where the violation is associated with an event that is not a continuing violation, the person responsible for the violation shall not have an opportunity to correct or otherwise remedy the violation, and the administrative fine shall be imposed. Every recurrence of an event in violation of this chapter shall be considered a separate occurrence and shall be subject to the fine schedule outlined below.

The schedule of fines for administrative citations issued for violations of this Chapter is as follows:

1. Not to exceed \$100 for the first violation
2. Not to exceed \$200 for the second violation of the same code provision within twelve (12) months; and
3. Not to exceed \$500 for the third violation of the same code provision within twelve (12) months.

Each person that fails to pay any fine set out in an administrative citation issued pursuant to this section shall be liable for a late payment charge of 10%.

Section 11. PUBLICATION AND EFFECTIVE DATE.

Pursuant to the provisions of Government Code Section 36933, a Summary of this Ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this Ordinance is scheduled to be adopted, the City Clerk shall (1) publish the Summary, and (2) post in the City Clerk's Office a certified copy of this Ordinance. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall (1) publish the summary, and (2) post in

the City Clerk's Office a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against this Ordinance or otherwise voting.

Section 12. SEVERABILITY

In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

CITY OF MILPITAS
COMMUNITY ADVISORY COMMISSION
MILPITAS CITY HALL COMMITTEE MEETING ROOM
UNAPPROVED MINUTES
September 1, 2004

**I.
Call to Order
and Roll Call**

Chair Iloreeta called the meeting to order at 7:00 p.m. Present were Commissioners Abelardo, Cook, Lee, Mandal, Mohsin, and Ranker
Alternates present were Commissioners Fang, Lind, Luna, and Queenan
Absent: Commissioner Pham

**II.
Seating of
Alternates**

Alternates seated: Luna and Lind

**III.
Pledge of
Allegiance**

Commissioner Cook led the Pledge of Allegiance.

**IV.
Approval of
Agenda**

MOTION to approve the Agenda as submitted

M/S: Mohsin, Ranker

Ayes: 9

**V.
Approval of
Minutes**

Minutes of August 4, 2004 to be approved at the October 6, 2004 meeting.

**VI.
Announcements**

Staff announced the resignation of Sam Robinson. Commissioner Luna will move up to a regular member. Commissioner Lind moves to Alternate 1, Commissioner Fang to alternate 2, and Commissioner Queenan to Alternate 3 with Alternate 4 being a vacancy. National Night-Out was held on August 5th with 21 parties and over 1,000 in attendance. It was a great success. Commissioners Queenan, Mohsin, and Abelardo are the NBO Awards subcommittee for this year. Staff received 30 nominations for the Awards. There will be mandatory Ethics Code Training on October 7th and 20th. The Employee Service Awards luncheon is September 28th.

Chair Iloreeta announced the Economics Forum for City Commissioners on September 13th at 6:00 pm in the Committee Meeting Room at Milpitas City Hall.

Councilmember Polanski announced the Memoriam for September 11th at 11:00 am at City Hall. The Great Mall is having a 10-year Anniversary celebration on September 25th from 12 – 5 pm.

**VII.
Citizens' Forum**

Chair Iloreeta invited members of the audience to address the Commission on any item not on the agenda. There were no requests.

VIII.

Liaison Reports

a. City Council

Councilmember Polanski introduced herself to the Commission and gave a brief summary of the most recent City Council items. The Arts Commission presented a proposal to the Council on art in the public places, putting a percentage of fees from developers towards acquiring artwork. The City Council approved an Open Government Ordinance. Council approved a council handbook. An ordinance was brought to the Council attention on human habitation in parked cars. A resolution will be presented to the County Board of Supervisors to make all fire stations throughout the county a place where abandoned babies can be brought.

IX.

New Business

a. Annual Employee Service Awards Luncheon on September 28, 2004.

Staff stated that the Annual Employee Service Awards Luncheon would be held on September 28, 2004 at the Milpitas Sports Center at 11:30 a.m. The Commissioners volunteering to serve at the luncheon are: Commissioners Lee, Luna, Lind, Chair Iloreto and Vice-Chair Mohsin. Commissioners are to be at the Milpitas Sports Center by 11:00 a.m.

b. Ethics Project.

Staff stated that there would be an evaluator panel. The Council will review a contract for the evaluators on September 21, 2004. A new date for the campaign candidates forum has been set for Saturday, October 30, 2004 at 4:00 p.m. The Council requested a 60-day follow-up to evaluate their progress in achieving the goals they set for themselves. The session has been set for October 6th. A draft of an "Ethics First" guide has been reviewed by the Steering Committee on August 24th.

Commissioner Luna asked if the October 6th meeting would overlap with the CAC meeting. Staff stated that it was suggested that the CAC might want to attend the Council session and begin the CAC meeting later that evening.

Commissioner Mandal suggested attending the session for an hour and starting their meeting at 7:30 p.m. Polanski suggested starting the CAC meeting at 6:30 p.m., call it to order, go to the session for the first hour, and resuming the CAC meeting at 7:30 p.m.

MOTON to start the CAC meeting at 6:30 p.m., attend the Ethics session for an hour and continue the CAC meeting thereafter.

M/S: Mandal, Mohsin

Ayes: 9

c. Discussion of Commissioner's repeated absences and the Commission's options/prerogatives.

Chair Iloreto stated he requested this item on the agenda due to Commissioner Robinson's absences. He asked if a letter should be sent to Council. He later learned that Commissioner Robinson had turned in his resignation. Councilmember Polanski stated that as Council liaison she watches for continued absences of any of the Commissioners. Chair Iloreto would the attendance sheet to include 2 years at a time.

d. Youth Participation on the CAC:

Staff stated that at the June 2nd meeting, the Commission requested that Chair Iloreto contact the chair of the Youth Advisory Commission (Coel Augustin) to discuss youth participation on the CAC. Chair Iloreto stated he spoke to Mr. Augustin and suggested they agendize this topic at the next Youth Advisory meeting.

c. Sign Ordinance Amendments.

Staff stated they are proposing modifications to the Sign Ordinance, Zoning Ordinance and Neighborhood Beautification Ordinance. These modifications would include defining terms that are currently undefined, address typical sign types not currently in the ordinance, clarify approval authority and process for signs, require administrative approval of Temporary Promotion Signals, speed up corrections to certain violation and add administrative citation authority to the Sign Ordinance. These modifications would make the ordinances better organized.

Staff stated the next step is to share the CAC's input with the Economic Development Commission on September 13, 2004 and the Planning Commission on September 22, 2004 who is also receiving these amendments prior to City Council consideration for adoption in October.

f. Subcommittee/Task Force Status Reports.

Neighborhood Preservation (Lee, Mohsin, Queenan, and Luna)

Commissioner Queenan stated that a meeting was held regarding street sweeping. Staff stated that they did research with other cities. Unity City does street sweeping on one side of the street on Tuesdays and then sweeping the other side on Thursdays. Cost for this program is \$297+. Staff stated BFI does the street sweeping for the City of Milpitas. BFI's contract with the City goes until January 31, 2005 with no cost to the City.

Commissioner Queenan stated that public education is very important. He suggested looking into video equipment for cost savings.

50th Year Anniversary (Mohsin, Mandal and Lind)

The subcommittee has not met lately.

Ethics (Abelardo, Lind, and Ranker)

This item was discussed earlier in the meeting.

Tree Decorating Celebration (Pham, Cook and Abelardo)

This item will be addressed in November.

**X.
Adjournment**

Chair Iloreta adjourned the meeting at 9:05 p.m. to the October 6, 2004 meeting.

Respectfully submitted,

Yvonne Andrade, Recording Secretary